

IN THE CIRCUIT COURT FOR FREDERICK COUNTY, MARYLAND

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:
STATE OF MARYLAND :
:
v. : Criminal No. 10-K-16-059271
:
ABE ARJUN MALLIK, :
:
Defendant. :
:
-----X

JURY TRIAL

Frederick, Maryland

May 31, 2017

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:
STATE OF MARYLAND :
:
 v. :
Criminal No. 10-K-16-059271
:
ABE ARJUN MALLIK, :
:
Defendant. :
:
-----X

May 31, 2017

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<u>For the State:</u>				
Jason Snyder	5/33	55/118	144,165	159
Steven Gibson	169	207	232	233

For the Defendant:

(None)

<u>EXHIBITS</u>	<u>MARKED</u>	<u>RECEIVED</u>
<u>For the State:</u>		
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P R O C E E D I N G S

THE CLERK: All rise. The Circuit Court for Frederick County is now in session, the Honorable Michael M. Galloway presiding.

THE COURT: Good morning. Be seated, please.

MS. KING: Good morning, Your Honor. Joyce King on behalf of the State, and for the record, State of Maryland versus Abe Mallik, 059271.

MS. CHOI: May it please the Court, Your Honor, Sun Choi on behalf of Mr. Abe Mallik, who's standing to my left, present in the courtroom.

THE COURT: Good morning, counsel. Anything before we bring in the jury?

MS. KING: No. I think we've handled the, all the preliminary --

THE DEPUTY: Your Honor, I need to interrupt you. One of the jurors for some reason left. He went down to the jury room. He's coming back up. So you're missing one juror at this point, so just to let you know.

THE COURT: Not one of the alternates, one of, one of the actual --

THE DEPUTY: I don't know. He just said he was part of the jury, and he was wandering around back here, and so he said he needed to go downstairs. So I let him out, but he's going to wait for one of the deputies to escort him back here.

1 I'm in a different --

2 UNIDENTIFIED SPEAKER: Do you want me --

3 THE DEPUTY: Yes, that would be fine, if you -- yes.

4 Thank you. I'm sorry, Your Honor.

5 THE COURT: He's probably hiding.

6 UNIDENTIFIED SPEAKER: Yeah.

7 (The jury entered the courtroom.)

8 THE COURT: Good morning, ladies and gentlemen. Be
9 seated, please.

10 THE JURY: Good morning.

11 THE COURT: You can be seated.

12 JUROR: Okay.

13 MS. KING: Thank you, Your Honor. State calls
14 Detective Jason Snyder.

15 JASON SNYDER

16 called as a witness on behalf of the State, having been first
17 duly sworn, was examined and testified as follows:

18 DIRECT EXAMINATION

19 BY MS. KING:

20 Q Good morning, Detective Snyder. Can you please state
21 your name for the record?

22 A Sure. I'm -- excuse me, let me get this -- Detective
23 Jason Snyder with the Frederick County Sheriff's Office.

24 Q And what is your occupation at the sheriff's office?

25 THE COURT: Wait. Wait.

1 THE WITNESS: I currently --

2 THE COURT: Wait one second, please. I don't know
3 you, Detective, so if you could state your name slowly and --

4 THE WITNESS: Sure.

5 THE COURT: -- spell your last name.

6 THE WITNESS: Sure, Detective Jason Snyder, spelled
7 S-N-Y-D-E-R.

8 THE COURT: Thank you.

9 THE WITNESS: I'm assigned to the Criminal
10 Investigation Section within the Frederick County Sheriff's
11 Office.

12 BY MS. KING:

13 Q And what is the Criminal Investigation Section?

14 A So we handle in-depth crimes, but specifically, I
15 handle digital crimes. I'm part of a task force called
16 Maryland ICAC. That stands for Internet Crimes Against
17 Children. I primarily handle child pornography investigations.
18 Also, I'm cross-trained in investigating, doing digital
19 forensics on evidence as well.

20 Q And as a part of -- can you describe generally what
21 type of work you do in ICAC?

22 A Sure. So ICAC stands for Internet Crimes Against
23 Children. I receive something called cyber tips. Cyber tips
24 come from an agency called the National, National Center for
25 Missing & Exploited Children, otherwise known as NCMEC. These

1 cyber tips have been reported by what are called ESPs, or
2 Electronic Service Providers. Think of them as your companies
3 like Google, Dropbox, or Facebook. Whenever they see child
4 pornography being uploaded or disseminated, they will
5 automatically generate a cyber tip to the National Center for
6 Missing & Exploited Children and then that gets disseminated to
7 law enforcement to investigate.

8 Q And can you please describe to the jury some of your
9 professional training in computer crimes?

10 A Sure. So I've had training when it comes to the
11 standards of how to conduct investigations with regards to
12 internet crimes against children. I had training with regards
13 to tracing IP addresses, training with regards to seizing and
14 identifying electronic evidence. I've also had training, a
15 five-week course, taught by the Secret Service, with regards to
16 recovering evidence from electronic devices. I'm familiar with
17 various tools used to recover evidence, to include EnCase, IEF,
18 and something called Griffeye. I had various other trainings
19 with regards to mobile devices, include locating evidence in
20 the cloud, call detail records, and also recovering evidence
21 from mobile devices.

22 Q And how long have you been with the Frederick County
23 Sheriff's Office?

24 A Approximately 11 years.

25 Q I'm going to direct your attention to the

1 investigation -- actually, before that, you stated that you
2 investigated cyber tips and you were involved in ICAC. How
3 long have you been involved with, with that organization?

4 A That has been approximately six or seven months, I'm
5 going to say.

6 Q Okay. I'm going to direct your attention to this
7 investigation, to July 2016. What investigation were you
8 assigned?

9 A I was assigned a case, Abe Mallik case.

10 Q And why were you assigned that?

11 A The detective who I took over for had retired and
12 went to work for the federal government.

13 Q And did you follow your standard cyber tip
14 investigation process when handling this case?

15 A Correct.

16 Q And can you just walk us through your investigation?
17 What did you do first?

18 A So I would have taken a look at the cyber tip first.
19 I don't know if you have a copy of it, but --

20 MS. KING: If actually, Your Honor, if I could
21 approach?

22 THE COURT: (No audible response.)

23 MS. KING: Madam Clerk, can I have State's Exhibit 1?

24 I'm showing defense counsel what's been marked and
25 admitted as State's Exhibit 1. If I may approach the witness?

1 THE COURT: (No audible response.)

2 MS. CHOI: No objection. It's already admitted.

3 BY MS. KING:

4 Q Is that the cyber tip that you reviewed?

5 A Yes.

6 Q And what information did you receive regarding that
7 cyber tip?

8 A So the cyber tip was reported by Google. It was
9 reported that on March 3rd, 2016, at approximately 7:26 UTC
10 time --

11 Q What is UTC time?

12 A UTC time stands for -- it's like a standard time --
13 Coordinated Universal Time. It would have been five hours
14 ahead of Eastern Standard Time during this incident.

15 Q So what time was that e-mail sent Eastern Standard
16 Time?

17 A So that would have been 2:26 Eastern Standard Time.

18 Q Upon reviewing that preliminary information, what did
19 you do next regarding that cyber tip?

20 A Well, I noted that the sender of the child
21 pornography was an account to man.maryland@gmail.com. I
22 verified -- I took a look at the IP addresses associated with,
23 with that account as well as looked at the images that were
24 attached to the cyber tip.

25 Q Let's walk through the images that were attached to

1 that cyber tip. I'm going to direct your attention to, how
2 many -- first, let the jury know, how many images did, was
3 reported on the cyber tip?

4 A There were six images in total.

5 Q I'm going to direct your attention to the first
6 image. Regarding the first image that's index 4.png, can
7 you -- did you have the opportunity to review that image?

8 A I did.

9 Q And can you describe that image to the jury?

10 A It was an image that -- it was an image containing
11 child pornography.

12 Q Can you describe in detail what the image consisted
13 of?

14 A No.

15 Q Okay. Can you describe where -- when was that image
16 sent?

17 A That image was sent via that IP address, which is 74
18 115 215 193 at 3/23/2016 at 7:26 UTC, which would have been
19 2:26 Eastern Standard Time.

20 Q And you stated that the images were attached to this
21 cyber tip?

22 A Correct.

23 Q And you reviewed them?

24 A I did.

25 Q Okay.

1 MS. KING: If I could approach Madam Clerk?

2 THE COURT: (No audible response.)

3 MS. KING: If I could have this marked as State's
4 Exhibit -- what number am I on?

5 THE CLERK: 4.

6 MS. KING: 4. Thank you. I'm showing defense
7 counsel State's Exhibit No. 4. If I may approach the witness?

8 (The photographs referred to
9 were marked as State's Exhibit
10 No. 4 for identification.)

11 THE COURT: (No audible response.)

12 MS. CHOI: Oh, Court's indulgence.

13 BY MS. KING:

14 Q I'm showing you State's Exhibit 4. Do you recognize
15 that?

16 A I do.

17 Q And describe that to the jury.

18 A It's a colored image depicting a Caucasian female who
19 is holding up her shirt. The female appears to be lying down
20 on possibly a couch. She's naked from basically her shirt
21 down. Above the prepubescent female is an adult male inserting
22 his penis into her vagina.

23 MS. KING: If I could have the Court's indulgence?

24 THE COURT: (No audible response.)

25 MS. KING: And, Madam Clerk, I'm going to be -- this

1 is going to be all State's Exhibit 4, all these images.

2 BY MS. KING:

3 Q And that is -- was that the image you described in
4 the first index, index 4 png?

5 A Correct.

6 Q All right. If you could direct your attention to the
7 next image, that is -- can you describe that to the jury?

8 A It's a colored image. It depicts a prepubescent
9 white female. The white female is naked. She appears to be,
10 or she is on all fours. She's looking directly at the camera.
11 An adult male is seen inserting his penis into her anus.

12 Q And is that what you identified as index 5 png?

13 A Correct.

14 Q Okay. I'm going to direct your attention to the next
15 image. Can you -- did you have an opportunity to review that
16 image?

17 A I did.

18 Q And was that included in the cyber tip?

19 A Correct.

20 Q That is index png. Can you describe that image to
21 the jury?

22 A The image is a colored image. It depicts a
23 prepubescent white female. The white female is holding her
24 shirt up. She's naked beyond that. The white female has her
25 legs spread open. In the forefront of the camera is a male

1 penis. There appears to be some sort of white substance on the
2 prepubescent child's vagina area.

3 Q I'll direct your attention to the next image, index 6
4 png. What is -- do you recognize that?

5 A Yes.

6 Q And is that the image that was attached to the cyber
7 tip?

8 A Yes.

9 Q And can you describe that to the jury?

10 A This image is a colored image. It depicts a
11 prepubescent white female. She's holding -- she has a yellow
12 shirt. She is pulling up her yellow shirt with her left hand.
13 She appears to be on a bed. Above the, the female is a male.
14 His erect penis is touching the female's vagina. There appears
15 to be some sort of white substance on the child's torso.

16 Q And as to the next image that was included in the
17 cyber tip, can you describe that?

18 A The image depicts from kind of the torso down. It's
19 a prepubescent female. The female is shown spreading her legs.
20 On the female's belly is a white substance. The female is
21 lying on, looks like Pokémon sheets. Above the female is a,
22 depicts a penis of a -- erect penis of a white male.

23 Q Now, Detective Snyder, you stated on -- you reviewed
24 an IP address. Can you -- there's a pointer there -- can you
25 just explain the information to the jury?

1 A Sure. So this IP address, that's the IP address that
2 Google captured that sent the child pornography. This is the
3 date and time that was captured when this file was uploaded.

4 Q And what, what is an IP address?

5 A Think of an IP address as basically the way our
6 devices, our computers connect to the Internet. You can't
7 really connect to the Internet without an IP address. It
8 stands for Internet protocol.

9 Q And were those all, all the images?

10 A There was one more image.

11 Q And the last image, you can describe that to the
12 jury.

13 A Sure. It's a colored image. It depicts a white
14 prepubescent female. The female is wearing a pink shirt. She
15 is naked beyond that. She has her legs spread open. She is
16 looking directly at the camera. She appears to be on the
17 couch. Above the female is a white male inserting his erect
18 penis into her vagina.

19 Q And based on your training, experience in this field,
20 did you identify these as child pornography?

21 A Yes.

22 MS. KING: At this time, Your Honor, State would move
23 State's Exhibit 6 into evidence.

24 MS. CHOI: Your Honor, the Defense would object at
25 this time, for the record.

1 MS. KING: I'm sorry. That's State Exhibit 4.

2 THE COURT: Wish to be heard?

3 MS. CHOI: Yes, Your Honor.

4 (Bench conference follows:)

5 MS. CHOI: Your Honor, just for the record, it would
6 violate Maryland Rule 5-403, that it would be --

7 THE COURT: Say it again.

8 MS. CHOI: For the record, it would violate Maryland
9 Rule 5-403 because it would be extremely, highly prejudicial
10 and it would outweigh substantially the probative value for
11 which it's being offered. Certainly, the descriptions are
12 sufficient. He has provided information that based on his
13 training and experience, that these are child pornography. We
14 did not contest that or object to that part.

15 THE COURT: I'll overrule the objection --

16 MS. KING: Thank you, Your Honor.

17 MS. CHOI: Thank you.

18 THE COURT: -- and admit the exhibit.

19 (The photographs marked for
20 identification as State's
21 Exhibit No. 4 were received
22 in evidence.)

23 (Bench conference concluded.)

24 MS. KING: If I may publish to the jury?

25 THE COURT: (No audible response.)

1 MS. KING: The husher, Your Honor. Thank you.

2 BY MS. KING:

3 Q After reviewing these images from the cyber tip, you
4 stated that you reviewed the IP addresses. What, what did you
5 do to confirm those IP addresses?

6 A So we confirmed the subscriber of those IP addresses.

7 MS. CHOI: Objection, Your Honor. I don't know what
8 he references when he says we.

9 BY MS. KING:

10 Q Just state what, what you, you did.

11 A The subscriber was confirmed through those IP
12 addresses.

13 Q And let's go first with the one that we see here on
14 the screen, 74 115 215 193. Did you confirm that one?

15 A Correct.

16 Q And how did you confirm that?

17 A Court order was sent to Fast Serv, who is the ISP.
18 ISP stands for Internet service provider. Fast Serv advised
19 that that IP address is actually reallocated to a company
20 called Privax, and Privax is the parent company of something
21 called Hide My Ass, which is a virtual private network.

22 Q What is a virtual private network?

23 A Think of a virtual private network, or a VPN, it's
24 kind of a way to securely go on the Internet. You can kind of
25 obscure your IP address so websites can't tell that your IP

1 address comes back to your residence.

2 MS. KING: If I may approach the clerk?

3 THE COURT: (No audible response.)

4 MS. KING: Approaching defense counsel, showing you
5 what's been marked as State's Exhibit 5 and 6, this is the
6 business records.

7 MS. CHOI: Yes, that's fine.

8 MS. KING: If I may approach the witness, Your Honor?

9 THE COURT: (No audible response.)

10 BY MS. KING:

11 Q I'm showing you State's Exhibits 5 and 6. Do you
12 recognize that?

13 A I do.

14 Q And as to Exhibit 5, what is that?

15 A This is a certified copy from Fast Serv, advising
16 that the IP address, that IP address, 74 115 215 193, is
17 actually reallocated to Privax.

18 Q And as to Exhibit 6, what is that?

19 A This is a certified copy from the virtual private
20 network, VPN, called Hide My Ass.

21 Q And are those a fair and accurate, complete copy of
22 the records that you received?

23 A Yes.

24 MS. KING: State would move into evidence, Your
25 Honor, Exhibits 5 and 6.

1 MS. CHOI: No objection, Your Honor. No objection.

2 THE COURT: This is Exhibit 5?

3 THE CLERK: And 6.

4 THE COURT: 5 and 6. State's Exhibits 5 and 6 are
5 admitted.

6 (The documents marked for
7 identification as State's
8 Exhibit Nos. 5 and 6 were
9 received in evidence.)

10 MS. KING: If I may publish to the jury?

11 THE COURT: (No audible response.)

12 BY MS. KING:

13 Q Detective Snyder, I'm showing you what's been
14 admitted into evidence as the Hide My Ass business record. Can
15 you just explain to the jury what information you were able to
16 recover from that --

17 A So the --

18 Q -- document?

19 A -- the beginning of the document contains subscriber
20 information; the username, Deputy God. It also contains some
21 address information, Point of Rocks, Maryland, and a ZIP code,
22 but the majority of that subscriber information during the
23 beginning.

24 Q And were you able to confirm -- what else was
25 included in the Hide My Ass record?

1 A It included IP logins associated with that account.

2 Q Okay. And what IP login was associated with that
3 account?

4 A Mr. Mallik's Comcast, his home IP address.

5 Q And how were you able to confirm that?

6 A Court order was sent to Comcast, and they provided
7 subscriber information for that IP address.

8 MS. KING: Your Honor, if I may approach Madam Clerk?

9 THE COURT: (No audible response.)

10 MS. KING: Showing defense counsel what's been marked
11 as State's Exhibit 7. If I may approach the witness, Your
12 Honor?

13 THE COURT: Yes.

14 BY MS. KING:

15 Q Detective Snyder, do you recognize that document?

16 A I do.

17 Q And what is that?

18 A This is the document that was sent to -- sent from
19 Comcast. It includes -- it advises that IP Address 76 100 27
20 72 was assigned to Mr. Abe Mallik, 1710 Canal Clipper Court,
21 Point of Rocks, Maryland.

22 Q And is that a fair and accurate, complete copy of the
23 records you received?

24 A It is.

25 MS. KING: And, Your Honor, State would like to move

1 into evidence State's Exhibit 7.

2 THE COURT: State's 7 is admitted.

3 (The document marked for
4 identification as State's
5 Exhibit No. 7 was received
6 in evidence.)

7 MS. KING: If I may publish to the jury?

8 THE COURT: Yes.

9 BY MS. KING:

10 Q Detective Snyder, you stated that you reviewed the
11 cyber tip and were informed that -- actually, strike that.

12 You say that these records were subscribed to Abe
13 Mallik, and what, what address was that?

14 A Home address or the IP address?

15 Q The home -- what was the home address?

16 A 1710 Canal Clipper Court, Point of Rocks.

17 Q Is that here in Frederick County, Maryland?

18 A That's correct.

19 Q And can you positively identify Mr. Mallik for today?

20 A Correct. He's seated to my right.

21 MS. KING: If the record could reflect that the
22 witness has identified the defendant?

23 THE COURT: (No audible response.)

24 BY MS. KING:

25 Q Now, Detective Snyder, you stated that the, the cyber

1 tip is generated from Google and associated with an account
2 man.maryland@gmail.com. Did there come a time when you
3 confirmed that e-mail?

4 A Yes.

5 Q And how did you do so?

6 A I reviewed the results of a search warrant that was
7 submitted to Google. Google submitted the results to the
8 sheriff's office, and I reviewed the results based on that.

9 MS. KING: If I could approach Madam Clerk?

10 THE COURT: Yes.

11 MS. KING: And I'm showing defense counsel State's
12 Exhibit 8. May I approach the witness?

13 THE COURT: (No audible response.)

14 BY MS. KING:

15 Q I'm showing you State's Exhibit 8. Can you tell the
16 jury what that is?

17 A This is a certified copy from Google. It includes
18 username, subscriber information. It includes a list of IP
19 addresses. It also includes hash values of the files that were
20 sent by Google.

21 Q Describe what, what a hash value is to the jury.

22 A Sure. So think of hash value as a fingerprint. A
23 simple way to think about it is that if we want to verify
24 evidence, if we want to verify something that we're posting
25 electronically, we can run a file, doesn't, doesn't matter what

1 it is -- it could be an image; it could be a document -- we can
2 run a file through a special program and it will generate a
3 unique number that's unique to that image, that file so, when
4 we download that file off the Internet, we can see that hash
5 value and we can run the hash value ourself and we can verify
6 that that document, that image is true, that it hasn't been
7 altered or anything like that.

8 Q And you stated -- what, what were contained in the
9 business records of Google?

10 A So it contained subscriber information. It contained
11 IP logins. It also contained the contents of the man.maryland
12 Gmail account.

13 Q Okay.

14 MS. KING: And State would move into evidence State's
15 Exhibit 8.

16 MS. CHOI: Your Honor, I would object with regard to
17 what we discussed concerning the contents.

18 MS. KING: And if we could approach?

19 MS. CHOI: Yes.

20 (Bench conference follows:)

21 MS. KING: I think that -- yes.

22 MS. CHOI: Just the business records?

23 MS. KING: That's just so -- the business records
24 contain an IP, the IP address, login, and the State is going to
25 attempt to introduce what we discussed yesterday, certain

1 e-mails, and I understand it's not the authenticity, it's the,
2 the 404-3 argument --

3 MS. CHOI: Right.

4 MS. KING: -- and we'll be heard on the 403 argument
5 at the time that we'll try to introduce those e-mails.

6 THE COURT: All right.

7 MS. CHOI: Okay.

8 (Bench conference concluded.)

9 MS. KING: And, Your Honor, if I may publish to the
10 jury? The, just the --

11 MS. CHOI: Right. Okay.

12 MS. KING: -- it's this one.

13 THE COURT: (No audible response.)

14 BY MS. KING:

15 Q Detective Snyder, I'm directing your attention to the
16 subscriber information. What, what -- can you tell the jury a
17 little bit about what you were able to gather from this?

18 A Sure. So you're seeing the name of the account,
19 manmaryland; the e-mail address, man.maryland@gmail.com. The
20 status was, has been disabled by Google. You see the end of
21 service, which is 3/3/2016 at 7:26 UTC time. That's the time
22 of when the child pornography was sent. You're also seeing the
23 creation date, July 26, 2010.

24 Q And listed on the bottom there are -- what, what is
25 that?

1 A So right here?

2 Q Yes.

3 A You're seeing IP logins associated with that Gmail
4 account.

5 Q And upon reviewing those logins, what were you able
6 to determine?

7 A So I noticed that the majority, actually 50-plus,
8 were from Mr. Mallik's home IP address, the Comcast one. There
9 were 29-plus from Mr. Mallik's employer, and there were also IP
10 addresses associated with that virtual private network or that
11 VPN that we talked about.

12 Q You stated that -- Court's indulgence -- those
13 images -- you stated that you were able to review the contents
14 of the e-mail, is that correct?

15 A Yes.

16 Q And can you tell the jury what, how you were able to
17 review those, the content of the e-mails?

18 A So when Google sends those e-mails over, they come in
19 like a proprietary or they come in a special file. I had to
20 open that up on something called Thunderbird. It's actually a
21 dot-MBOX file. I open it up in a, for a program called
22 Thunderbird and a program called MBOX Viewer to view the
23 contents of those e-mails.

24 Q And what did you search for first?

25 A I particularly looked for, my -- I focused my

1 attention on the date that the child pornography was sent,
2 which was March 3rd, 2016.

3 Q And were you able to locate those e-mails?

4 A I was.

5 Q And can you describe to the jury what you observed
6 regarding those e-mails?

7 A So I noted there were approximately 23 e-mails in
8 various forms, eight of which were sent. Those eight included
9 attachments. The, the subject line to those e-mails included
10 things such as Hide, Hide-1 Attachments. Also contained within
11 the attachments were images of child pornography related to our
12 cyber tip and also images of non-child pornography.

13 MS. KING: Your Honor, if I may approach Madam Clerk?

14 THE COURT: You may.

15 MS. KING: Okay. Can I just have all of these marked
16 as 8 -- 9.

17 THE CLERK: It'd be 9.

18 (The photographs referred to
19 were marked as State's Exhibit
20 No. 9 for identification.)

21 MS. KING: If I may approach counsel?

22 THE COURT: (No audible response.)

23 MS. KING: If I may approach the witness?

24 THE COURT: (No audible response.)

25 BY MS. KING:

1 Q I'm showing you State's Exhibit 9. Do you recognize
2 those images?

3 A I do.

4 Q And what are those?

5 A These were the images that were sent from
6 man.maryland to callmetim -- callme_tim@yahoo.com. These were
7 the images -- some of these images were contained in the cyber
8 tip, and these images were found in that, in the man.maryland
9 e-mail address.

10 Q And is that a fair and accurate representation of
11 what you observed in the certified business record content of
12 e-mails?

13 A It is.

14 MS. KING: Your Honor, State would like to move
15 State's Exhibit 9 into evidence.

16 MS. CHOI: Your Honor, just for the record, the
17 Defense would be objecting based on Maryland Rule 5-403 and 404
18 for those purposes, not for the authenticity.

19 THE COURT: Overruled.

20 MS. KING: Thank you, Your Honor. If I may publish
21 to the jury?

22 THE COURT: State's 9 is admitted.

23 (The photographs marked for
24 identification as State's
25 Exhibit No. 9 were received

1 in evidence.)

2 BY MS. KING:

3 Q Detective Snyder, you stated that in the same set of
4 e-mails there were also non-pornographic -- non-child
5 pornography images, is that correct?

6 A Yes.

7 Q And did you review those images?

8 A I did.

9 MS. KING: If I may approach Madam Clerk?

10 THE COURT: (No audible response.)

11 MS. KING: If I may approach counsel?

12 THE COURT: (No audible response.)

13 MS. KING: If I may approach the --

14 THE COURT: (No audible response.)

15 BY MS. KING:

16 Q And do you recognize that?

17 A (No audible response.)

18 Q Can you tell the jury what that is?

19 A These are images that were also contained, the
20 attachments of the man.maryland e-mail address, and sent to
21 callme_tim@yahoo.com.

22 Q And is that a fair and accurate representation of
23 what you viewed from the certified business records of Google?

24 A It is.

25 MS. KING: State would like to move State's Exhibit

1 10 into evidence.

2 MS. CHOI: Your Honor, the Defense would object to
3 this because, apparently, according to the State, this is not
4 the, the child pornography, but it is highly inflammatory and
5 prejudicial. So for the record, we are objecting.

6 THE COURT: Overruled.

7 MS. KING: Thank you, Your Honor.

8 THE COURT: State's Exhibit 10 is admitted.

9 (The photographs marked for
10 identification as State's
11 Exhibit No. 10 were received
12 in evidence.)

13 MS. KING: And may I publish to the jury?

14 THE COURT: (No audible response.)

15 BY MS. KING:

16 Q Now, Detective Snyder, you stated that these e-mails
17 were being sent to another e-mail address. What was that
18 e-mail address?

19 A That e-mail address was callme_tim@yahoo.com.

20 Q And did there come a time when you confirmed that
21 e-mail address?

22 A That's correct.

23 Q And how did you do so?

24 A Court order was sent to Yahoo. Yahoo responded and
25 provided subscriber information and IP logins associated with

1 that Yahoo e-mail address.

2 MS. KING: If I may approach Madam Clerk?

3 THE COURT: (No audible response.)

4 MS. KING: I'm showing defense counsel State's
5 Exhibit 11. If I may approach the witness?

6 THE COURT: (No audible response.)

7 BY MS. KING:

8 Q Detective Snyder, I'm showing you State's Exhibit 8.
9 Do you recognize that?

10 THE COURT: I'm sorry. 8?

11 MS. KING: Yes.

12 THE WITNESS: I do.

13 BY MS. KING:

14 Q And what is it?

15 A This is the response from Yahoo. It includes
16 subscriber information. It's a certified response from Yahoo,
17 I should say, and it also includes a list of IP logins to that
18 e-mail address.

19 MS. KING: I'm sorry, Your Honor. Is that -- I'm
20 sorry. That was marked 11.

21 THE WITNESS: 11.

22 MS. KING: 11.

23 BY MS. KING:

24 Q And is that a fair and accurate representation of the
25 records that you received from, from Yahoo?

1 A It is.

2 MS. KING: State would like to move into evidence
3 State's Exhibit 11.

4 MS. CHOI: No objection.

5 THE COURT: It is admitted.

6 (The document marked for
7 identification as State's
8 Exhibit No. 11 was received
9 in evidence.)

10 MS. KING: Thank you, Your Honor. If I could publish
11 to the jury?

12 THE COURT: (No audible response.)

13 BY MS. KING:

14 Q And what information was contained in this business
15 record, Detective Snyder?

16 A So you see the subscriber information, the account
17 callme_tim. It tells you when the account was created,
18 September 4th of 2009; the full name of the account, timcallme;
19 and the registered IP address or the --

20 Q And were you -- you stated that there was also IP
21 logins. What -- did you have an opportunity to review those
22 logins?

23 A Correct.

24 Q And what information did you gather from reviewing
25 all those logins?

1 A I noted that there were several hundred IP logins to
2 that account, the majority of which came from the defendant's
3 home IP address. I believe there were also some IP addresses
4 to his work, from his work.

5 Q Okay. And directing your attention specifically to
6 the date of March 3rd, where were those logins?

7 A That would have been to the defendant's Comcast home
8 IP address.

9 Q Now, Detective Snyder, I'm going to redirect your
10 attention back to the Gmail account. After you were done
11 confirming all these IP logins, did you find anything else of
12 evidentiary value with defendant's e-mails?

13 A I did.

14 Q And what -- first tell the jury, what type of things
15 do you look for during an investigation of an Internet crime
16 like this? What information are you looking for in the
17 e-mails?

18 A We're looking for any other correspondence with
19 anyone else, looking for any other images, any patterns.

20 Q And what did you find?

21 A I noticed that there were multiple e-mail addresses
22 sent from the defendant to the, to the defendant's other e-mail
23 addresses. So it's from one e-mail address owned by the
24 defendant to another e-mail address associated with the
25 defendant.

1 Q And what else did you locate?

2 A I located some, some conversations, or some pictures
3 of some underage females.

4 MS. KING: Your Honor, if I could have the Court's
5 indulgence?

6 THE COURT: (No audible response.)

7 MS. KING: Your Honor, if we could approach?

8 THE COURT: Yes.

9 (Bench conference follows:)

10 MS. KING: If I could -- I, I left a folder on my
11 desk, and I also have to pump. I didn't know if it was
12 appropriate if I could just take a 10-minute recess at this
13 time?

14 THE COURT: Yes, we can do that.

15 MS. KING: Okay. Thank you.

16 (Bench conference concluded.)

17 THE COURT: All right. We're going to take a
18 10-minute recess, ladies and gentlemen.

19 (The jury left the courtroom.)

20 THE CLERK: All rise.

21 (Recess)

22 THE CLERK: All rise.

23 THE COURT: Be seated, please.

24 MS. KING: Thank you, Your Honor.

25 THE COURT: Let's bring in the jury.

1 (The jury entered the courtroom.)

2 THE COURT: All right. Ms. King, proceed.

3 MS. KING: Thank you, Your Honor.

4 DIRECT EXAMINATION (Resumed)

5 BY MS. KING:

6 Q And, Detective Snyder, you said you had did a further
7 review of the Gmail account to find any indications of -- if
8 you can tell, tell the jury why you're going through the Gmail
9 account.

10 A To locate, to see if there's any other evidence
11 located on that account.

12 Q And you stated that the first set of e-mails that you
13 located were e-mails of the defendant e-mailing himself?

14 A Correct.

15 MS. KING: If I may approach the clerk?

16 THE COURT: (No audible response.)

17 MS. KING: Your Honor, I'm showing defense counsel
18 State's Exhibit 12. If we could approach?

19 THE COURT: (No audible response.)

20 MS. CHOI: For the record, Your Honor, the Defense
21 would object.

22 (Bench conference follows:)

23 MS. KING: So this is the first set of e-mails, Your
24 Honor -- the first part of this that counsel has no opposition
25 to; it's the last two e-mails.

1 MS. CHOI: Correct, Your Honor, and pursuant to
2 Burris v. State, 435 Md. 370 (2013), it states very clearly
3 evidence may be unfairly prejudicial if "it might influence the
4 jury to disregard the evidence or lack of evidence regarding
5 the particular crime with which he is being charged." It has
6 been said that "probative value is outweighed by the danger of
7 unfair prejudice when the evidence produces such an emotional
8 response that logic cannot overcome prejudice or sympathy
9 needed to inject into the case" -- "needlessly inject into the
10 case."

11 And it further states that "in order to admit that
12 evidence of a highly incendiary nature, the evidence must
13 greatly aid the jury's understanding of why the defendant was a
14 person who committed the particular crime charged. A court
15 should not, however, admit evidence possessing weak probative
16 value if the evidence might produce a jury inference that the
17 defendant had a propensity to commit crimes or was a person of
18 general criminal character."

19 So, Your Honor, we are -- at this point the Defense
20 is arguing that with regard to some of these e-mails, it is
21 highly, unfairly prejudicial. It would elicit an emotional
22 response to the point where that a jury would not be reasonably
23 accepting of the evidence and focusing on the evidence at hand
24 but would then decide that he would have some propensity if
25 they don't find credible the defense theory of the hack.

1 MS. KING: If I could --

2 THE COURT: Well, what specifically -- I haven't, I
3 mean, I only --

4 MS. CHOI: Yes.

5 THE COURT: -- I haven't seen these.

6 MS. CHOI: These are the e-mail exchanges where, of
7 text messages being sent to --

8 MS. KING: No, this is not of that.

9 MS. CHOI: What is this?

10 MS. KING: If I could respond first, Your Honor.
11 First, as to this e-mail, this is not prejudicial whatsoever.
12 It has nothing to do with the crime. This is simply the
13 defendant sending himself images of a young female, that he has
14 to reestablish identity, that this is a pattern that he e-mails
15 himself information. This goes to the State's case and as to
16 the main issue, that he's the controller and user of this
17 e-mail. We don't think that this is prejudicial whatsoever.
18 There's nothing inflammatory about that e-mail.

19 MS. CHOI: I would disagree. The actual language
20 with which they talk about breast size and being sucked is
21 definitely prejudicial.

22 THE COURT: I'm sorry?

23 MS. CHOI: They talk about breast, bra sizes and
24 being sucked and things like that, whoever they are. So
25 absolutely, it is prejudicial because it does talk about those

1 things.

2 MS. KING: And, Your Honor -- and I, I believe I
3 argued this yesterday -- we can't sanitize this case that we're
4 not talking about things that are sexual in nature or -- it
5 does not outweigh the probative value.

6 THE COURT: These are all the same.

7 MS. KING: Yes, or they're continuations. He's
8 e-mailing himself. The, the balance of the e-mails included
9 every time he e-mails himself, but they're in other
10 information, and I, if Your Honor wants, I could just include
11 just the last image so we're just not seeing the same image
12 over and over again. If that's cumulative, I can remove the
13 first pages.

14 MS. CHOI: That would not be satisfactory to the
15 Defense, Your Honor, pursuant to Burris v. State.

16 THE COURT: And what do you think this adds to the
17 State's case?

18 MS. KING: Your Honor, the defense is that he's being
19 hacked. So a lot of the, with regards to child pornography --
20 and this is established in the cases that were sent to the law
21 clerk -- is that a lot of this depends on, on circumstantial
22 evidence because there's no eyewitness.

23 So we need to prove and establish the defendant is
24 using this e-mail, that this is his method of e-mailing
25 himself, these images of child pornography were e-mailed to

1 himself. So we're establishing a pattern that this is his
2 course of conduct, that things of sexual nature, things that he
3 wants to hide, things that he wants to go back to he e-mails
4 himself.

5 MS. CHOI: I would disagree with that, Your Honor --

6 THE COURT: I guess I look at this --

7 MS. CHOI: -- because --

8 THE COURT: -- and I'm not, first of all, I'm not
9 sure what, that it really adds that much to the State's case,
10 but secondly, I'm not really sure that it's all that
11 prejudicial either.

12 MS. CHOI: Then, I guess, Your Honor, the prudent
13 thing to do is to not let it in.

14 MS. KING: And, likewise, Your Honor, this is the
15 second e-mail, and this is an e-mail consisting of a sexual
16 conversation, and again, it's the defendant e-mailing himself
17 things of sexual nature, and we believe that that absolutely is
18 relevant when the issues here are identity.

19 THE COURT: Are these two separate --

20 MS. KING: Yes, those are two separates.

21 THE COURT: Do you object to this one?

22 MS. CHOI: I do object to that, Your Honor, yes.

23 MS. KING: Yes, those, those are the two that she
24 objects to.

25 MS. CHOI: Absolutely. Do you know the phone number

1 that is involved in that set of e-mails?

2 MS. KING: No. We're not going as to -- I mean,
3 it's, we're not, it's not as to the -- I mean, so we're not
4 needed to establish the phone number.

5 MS. CHOI: No, no, no. I'm just --

6 MS. KING: Yes. Yes. Yes.

7 MS. CHOI: -- I'm just asking if that was even --

8 MS. KING: Yes.

9 MS. CHOI: -- investigated.

10 MS. KING: No. It's --

11 MS. CHOI: It's, like, older.

12 MS. KING: Yes.

13 MS. CHOI: Yes. Just doing my due diligence and, as
14 Your Honor can see, it would be the same argument under Burris
15 v. State.

16 THE COURT: I'm going to sustain.

17 MS. CHOI: Thank you.

18 MS. KING: On those two e-mails, Your Honor? So I
19 can proceed on this?

20 MS. CHOI: Oh, this? Yes. Yes.

21 MS. KING: Proceed on this?

22 MS. CHOI: Oh, which one?

23 MS. KING: These are --

24 MS. CHOI: Yes.

25 MS. KING: Okay. Yes. If I may approach the

1 witness?

2 THE COURT: Yes.

3 (Bench conference concluded.)

4 BY MS. KING:

5 Q Detective Snyder, I'm showing you State's Exhibit 12.
6 Can you tell the jury what that is?

7 A These are various e-mails that were sent from man.,
8 man_maryland -- actually, sent from both, looks like one's here
9 from man_maryland@yahoo to man.maryland. The other ones are
10 e-mail addresses, or e-mails that were sent from the
11 defendant's e-mail to e-mails associated with the defendant.

12 Q Are those the set of e-mails that you were referring
13 to as to the defendant e-mailing himself?

14 A Correct.

15 Q And is that a fair and accurate representation of the
16 e-mails that you reviewed from the business record?

17 A That's correct.

18 MS. KING: Your Honor, State would like to move into
19 evidence State's Exhibit 12.

20 MS. CHOI: Your Honor, may I have the opportunity,
21 just look at all of those before it gets --

22 THE COURT: Sure.

23 MS. CHOI: If I may approach the witness?

24 THE COURT: (No audible response.)

25 MS. CHOI: Okay.

1 MS. KING: Thank you, Your Honor.

2 BY MS. KING:

3 Q And, Detective Snyder, you stated that there was a
4 second set of e-mails, and what were those?

5 A So what I was referring to earlier is there were some
6 one-way conversations between two juvenile females.

7 Q And how did, you were -- how were you able to
8 identify that they were juvenile females?

9 A One listed their age. In addition, both of them
10 contained images of the females that were sending these
11 correspondence.

12 MS. KING: If I could approach the clerk?

13 THE COURT: (No audible response.)

14 BY MS. KING:

15 Q And, Detective Snyder, explain to the jury why that's
16 relevant or to your investigation.

17 A It was relevant to me because it shows a pattern or
18 an interest in particularly young females.

19 MS. KING: If I may approach counsel?

20 THE COURT: (No audible response.)

21 MS. KING: Your Honor, if I may approach?

22 THE COURT: (No audible response.)

23 BY MS. KING:

24 Q I'm showing you State's Exhibit 13. Can you take a
25 moment to review those e-mails?

1 And is that a fair and accurate depiction of the
2 e-mails that you reviewed as a part of the Google business
3 record?

4 A It is. There were more, but yes.

5 MS. KING: And the State would like to move into
6 evidence State's Exhibit 13.

7 MS. CHOI: Your Honor, the Defense would object with
8 regard to those sets of documents and photographs.

9 THE COURT: As -- we're talking about two exhibits,
10 right, 12 and 13?

11 MS. KING: No. This is just 13.

12 THE COURT: No, no, but have I admitted 12?

13 MS. KING: Oh, the State would move into evidence 12.

14 THE COURT: All right. I'll admit Exhibit 12. Now,
15 as to Exhibit 13, approach, please.

16 (The documents marked for
17 identification as State's
18 Exhibit No. 12 were received
19 in evidence.)

20 MS. KING: And if I could publish 12 to the jury,
21 Your Honor?

22 THE COURT: Yes.

23 MS. CHOI: No objection to that.

24 (Bench conference follows:)

25 THE COURT: What is Exhibit 13?

1 MS. KING: These are images of, that he was --
2 actually, the State would, would, would remove this just so --
3 I will concede that that is not probative, but as to --

4 MS. CHOI: You can leave that on. I'll probably use
5 that.

6 MS. KING: But I will be using it as a stack.

7 MS. CHOI: Oh, okay, got it.

8 MS. KING: So --

9 MS. CHOI: Do you need to mark that -- leave it
10 marked then, because that's part of this? It describes --

11 MS. KING: You can use it. I won't object to you
12 using it --

13 MS. CHOI: Oh, okay.

14 MS. KING: -- if you want to just have it marked as a
15 defense exhibit.

16 MS. CHOI: Okay, because I don't know for the records
17 if they're going to --

18 MS. KING: No. They're going to -- it's just the
19 same images, and these are images of underage females, Your
20 Honor.

21 MS. CHOI: But that's -- this is the one that's going
22 to violate --

23 MS. KING: Oh, sorry.

24 MS. CHOI: -- Burris.

25 MS. KING: I think she's just objecting to this one

1 because there is one in sexual nature in this one.

2 MS. CHOI: If Your Honor keeps going. That's not it.

3 MS. KING: That's not the sexual nature. She's
4 kissing a teddy bear. That's the sexual --

5 MS. CHOI: Okay. That is the first time I've seen
6 that, because I've seen a very dark image and I didn't know
7 what it was until today, but that is, is --

8 MS. KING: And --

9 MS. CHOI: -- but that's what I saw. So I didn't
10 even know what that was, but I just saw this today.

11 THE COURT: What is this?

12 MS. KING: I believe it's the same image.

13 MS. CHOI: Yes.

14 MS. KING: So she's -- there's an object being
15 inserted into the female.

16 MS. CHOI: So we didn't see this. We saw a very
17 blurry dark photo of this, which I, we didn't know what it was
18 and then we realized that it was probably that. So, Your
19 Honor, the Defense would obviously object with regard to --

20 MS. KING: To that image.

21 MS. CHOI: -- to that image --

22 THE COURT: All right. No --

23 MS. CHOI: -- the whole set.

24 THE COURT: -- objection as to these?

25 MS. CHOI: Well, I mean, for the record, we're going

1 to object, and, and it is what it is, but with regard to the --

2 THE COURT: And what is it?

3 MS. KING: These are images --

4 THE COURT: You say these --

5 MS. KING: Yes. These are images -- he testified
6 these are images of young females that he was corresponding
7 with.

8 THE COURT: Are these the same people?

9 MS. KING: No.

10 THE COURT: They look the same.

11 MS. CHOI: Oh, they're not? They look --

12 MS. KING: They, I think --

13 MS. CHOI: I thought it was the same girl. I
14 think --

15 MS. KING: I'm sorry. It is the same.

16 MS. CHOI: -- that's Zoe Allen (phonetic sp.).

17 MS. KING: It is, yes. It is the same.

18 THE COURT: And do we know this is a photo of an
19 underage --

20 MS. KING: Yes.

21 THE COURT: How do we know that?

22 MS. KING: He confirmed it.

23 THE COURT: Who did?

24 MS. KING: The detective, and I was going to, I was
25 not -- I was going to let the Defense explore that if she --

1 MS. CHOI: Yes.

2 MS. KING: -- well, she will. She intends to.

3 MS. CHOI: So I would, for the record, object --

4 MS. KING: I think she intends to cross-examine on
5 it, though.

6 MS. CHOI: -- but then if it gets admitted, then I
7 will certainly --

8 THE COURT: All right. I think what I'm going to do
9 is I'll reserve on these --

10 MS. CHOI: And then --

11 THE COURT: -- pending --

12 MS. CHOI: Cross?

13 THE COURT: -- Ms. Choi's cross-examination --

14 MS. CHOI: Thank you, Your Honor.

15 THE COURT: -- of the detective regarding how this
16 was confirmed.

17 MS. CHOI: Okay.

18 THE COURT: Now, as to this one --

19 MS. CHOI: Objection.

20 THE COURT: -- do we know that this is an underage
21 female?

22 MS. KING: Yes, Your Honor, and I also believe that
23 in child pornography cases, these images speak for themselves.
24 That goes to the weight of the evidence, and I believe it's for
25 the jury to decide, and the defendant's --

1 THE COURT: Decide what?

2 MS. KING: To decide if this is an underage female
3 and whether it's relevant, and I believe --

4 THE COURT: The jury is to decide that based upon --

5 MS. KING: It goes to, it goes to the weight of the
6 evidence. The detective testified --

7 MS. CHOI: Well, then they're not --

8 MS. KING: -- the detective testified that he
9 believed that it was. So it goes to his credibility if they're
10 going to believe what the detective says or not, and then they
11 have the opportunity --

12 THE COURT: I want to, I want to, I want to hear
13 what --

14 MS. CHOI: If that --

15 THE COURT: -- he has to say.

16 MS. CHOI: But if that, if that's the case, Your
17 Honor, if that's the argument, then how in the world is he
18 going to testify that that photo of a vagina is an underage
19 girl's -- I mean, that impossible to say. Like --

20 THE COURT: Well, I'm assuming --

21 MS. CHOI: Exactly. We're assuming things --

22 MS. KING: It's sent, it's sent, it's sent from the
23 same --

24 MS. CHOI: -- that would be completely prejudicial.

25 MS. KING: It's not an assumption if the --

1 THE COURT: Do we know for sure that this is this?

2 MS. KING: Well, yes, because it's all in the --

3 MS. CHOI: We have no way --

4 MS. KING: -- same attachment. It's all in the same
5 attachment. I mean, that's, the evidence is --

6 MS. CHOI: Unless she actually told the detective
7 that's me inserting this device into myself, then no, that --
8 we have no idea.

9 THE COURT: I want to hear what, what he has to say
10 on cross. I'll reserve on --

11 MS. CHOI: Okay.

12 THE COURT: -- all of these until --

13 MS. CHOI: Thank you.

14 THE COURT: -- I give counsel an opportunity --

15 MS. KING: Okay.

16 THE COURT: -- to cross-examine.

17 MS. KING: I'll leave it up there for you, if that's
18 okay.

19 MS. CHOI: Okay. Thanks.

20 THE COURT: Okay.

21 MS. KING: Okay.

22 (Bench conference concluded.)

23 BY MS. KING:

24 Q Detective Snyder, I'm going to move away from your
25 review of the Google account and IP addresses, and let's, let's

1 move to the direction of the hard evidence in this case. Did
2 there come a time when you reviewed the property related to
3 this case?

4 A That's correct.

5 Q And what was your understanding of how this -- that
6 property was seized?

7 A So that property was seized on a search warrant at
8 the defendant's residence, at Point of Rocks, on April 21st,
9 2016.

10 Q And what did you do with those items?

11 A Those items were placed on Frederick County Sheriff's
12 property, and then they were transferred to Homeland Security
13 Investigations, a forensic examiner.

14 Q And were all the items that were seized, were they
15 all analyzed?

16 A No.

17 Q What was not analyzed?

18 A There has been an Apple iPad which the Frederick
19 County Sheriff's Office and Homeland Security have never been
20 able to access.

21 Q Why have you not been able to access it?

22 A Because the passwords that were provided by the
23 defendant never worked.

24 Q And do you have that iPad here in court today?

25 A I do.

1 Q And you can --

2 MS. KING: If I may approach Madam Clerk?

3 THE COURT: (No audible response.)

4 THE CLERK: Yeah.

5 BY MS. KING:

6 Q I'm showing you what's been marked as State's Exhibit
7 14. What is that?

8 A This is an Apple iPad.

9 Q And is that the iPad that you were referring to that
10 was not reviewed?

11 A That's correct.

12 Q And is that -- has that been in, placed in the chain
13 of custody?

14 A Yes.

15 MS. KING: State likes to move State's Exhibit 14
16 into evidence.

17 MS. CHOI: Your Honor, for the record, I would
18 object. I don't see the necessity. There's an accurate
19 description of exactly what it is, even the case color, the
20 color of the iPad, and the chain of custody in which the
21 Defense, for the convenience of the State's case, stipulated
22 to. I don't see why a physical piece of device needs to
23 actually be admitted into evidence at this point. So for the
24 record, the Defense would object.

25 THE COURT: I'll overrule. It's admitted.

1 (The item marked for
2 identification as State's
3 Exhibit No. 14 was received
4 in evidence.)

5 MS. KING: Thank you, Your Honor. If I could publish
6 that to the jury?

7 THE COURT: (No audible response.)

8 BY MS. KING:

9 Q Detective Snyder, did there come a time, were you
10 able to review the results of the forensic examination?

11 A That's correct.

12 Q And what, what were you able to find?

13 A So I received the results of the examination on
14 October 25th, 2016. I noticed that there were various images,
15 child pornography-related images as well as images that were
16 non-child pornography-related.

17 Q And where were those images located?

18 A On the defendant's Acer laptop.

19 MS. KING: If I may approach the clerk?

20 THE COURT: (No audible response.)

21 MS. KING: If I may approach the witness?

22 THE COURT: (No audible response.)

23 BY MS. KING:

24 Q I'm showing you State's Exhibit 15. Do you recognize
25 that?

1 A I do.

2 Q And what is it?

3 A These are three images, child pornography-related,
4 that were located on the defendant's Acer laptop.

5 Q And what -- are those fair and accurate depictions of
6 what you examined from the, Mr. Gibson's forensic examination?

7 A That's correct.

8 Q And what information is also contained from that
9 analysis?

10 A It gives the file name. It gives the path of where
11 the file was located. Also, it gives a file creation date and
12 a last-access date on it, as well as it also contains the
13 images -- image contained on the device.

14 MS. KING: And, Your Honor, State would like to move
15 into evidence State's Exhibit 15.

16 MS. CHOI: And, Your Honor, for the record, the
17 Defense would object based on all the arguments that was
18 previously presented.

19 THE COURT: I'll overrule. State's Exhibit 15 is
20 admitted.

21 (The documents and photographs
22 marked for identification as
23 State's Exhibit No. 15 were
24 received in evidence.)

25 MS. KING: If I could publish to the jury?

1 THE COURT: (No audible response.)

2 BY MS. KING:

3 Q You stated that there were other images located along
4 with those files. Can you describe those images to the jury?

5 A They were images that contained child erotica, images
6 of, yeah, various images of females, underage and of age,
7 various images.

8 Q After reviewing the forensic examination, what did
9 you do in concluding your investigation?

10 A So once I received the -- so HSI gave me two DVDs,
11 one of which contained the evidence that I put on Frederick
12 County Sheriff's Office property. The other DVD actually goes
13 to the National Center for Missing & Exploited Children,
14 otherwise known as NCMEC. They look at those images and
15 determine whether or not any of those images are contained in
16 any known series of child pornography.

17 Q Thank you. And I'm going to direct your attention to
18 the IP addresses for all the documents. Did there come a time
19 when you had analyzed those?

20 A Can you repeat the question one more time, ma'am?

21 Q Did there come a time when you analyzed the IP
22 address log-ons for all the records that you've received?

23 A Correct. Yes.

24 Q And what did you do?

25 A An Excel spreadsheet was compiled with all the IP

1 addresses from the Gmail account, from the Yahoo account, also
2 the VPN or Hide My Ass.

3 MS. KING: If I may approach?

4 THE COURT: (No audible response.)

5 BY MS. KING:

6 Q Can you tell the jury why you did that?

7 A Just to see if there's any patterns, to see when time
8 was being -- when, you know, the accounts were being accessed.

9 MS. KING: If I may approach?

10 THE COURT: (No audible response.)

11 MS. KING: If I may approach the witness?

12 THE COURT: (No audible response.)

13 BY MS. KING:

14 Q I'm showing you State's Exhibit 16. Can you describe
15 that to the jury?

16 A This is an Excel spreadsheet compiled, which contains
17 the IP logins for the callmetim@yahoo e-mail address, the
18 man.maryland@gmail address, as well as logins for the virtual
19 private network. It contains the date, the time in UTC, also
20 the time in Eastern Standard Time, as well as the IP address.

21 Q And is that a fair and accurate representation of
22 information that you received from all the certified business
23 records?

24 A That's correct.

25 MS. KING: State moves into evidence State's Exhibit

1 16.

2 MS. CHOI: Your Honor, I would object. The
3 underlying records are actually admitted into evidence, and
4 none of them, I believe, was objected to. At this point
5 there -- there's a lot of different information here, Your
6 Honor. It doesn't just contain the IP addresses of the
7 accounts for which the business records would provide to the
8 jury.

9 So at this point, Your Honor, with regard to this
10 summary, it looks as if it's a little bit confusing and it does
11 have information that is not familiar with regard to the
12 testimony that Detective Snyder provided with regard to the
13 different IP addresses. There's several, Your Honor. There's
14 one that says 192.171. There's one that says 107.168, and it
15 goes on. There's another one that says 38.111. I would
16 object, Your Honor. I believe it would just cause confusion.
17 The jury can certainly take a look at the business records with
18 the certification of the custodian records and see which IP
19 addresses were used at the date that's significant with regard
20 to this charge.

21 MS. KING: If I could respond, Your Honor? Counsel
22 has the opportunity to cross-examine Detective Snyder as to
23 those other IP addresses she's referring to. This absolutely
24 assists the jury in helping them understand the business
25 records. This is part of his investigation, and it shows a

1 pattern. We believe it is absolutely relevant and the jury
2 should see it.

3 THE COURT: I'm going to overrule and admit the
4 exhibit. State's 16 is admitted.

5 (The document marked for
6 identification as State's
7 Exhibit No. 16 was received
8 in evidence.)

9 MS. KING: If I could publish it, Your Honor?

10 THE COURT: (No audible response.)

11 MS. KING: No further questions.

12 THE COURT: Cross.

13 MS. CHOI: Okay. Thank you.

14 CROSS-EXAMINATION

15 BY MS. CHOI:

16 Q Detective Snyder, I'm taking a look at your résumé
17 that you provided through the State, and it's my understanding
18 that --

19 MS. KING: Objection. It's just outside the scope of
20 direct. I mean, she's referring to a résumé that wasn't
21 admitted into evidence.

22 MS. CHOI: Well, with -- Your Honor, if I may be
23 heard -- with regard to his, I guess, background and training
24 and professional experience, obviously the State asked a lot of
25 questions with regard to that. I'm simply going to ask

1 questions, following up with regard to his training.

2 THE COURT: Overruled.

3 MS. CHOI: Thank you.

4 BY MS. CHOI:

5 Q Now, it's my understanding, Detective Snyder, that
6 you were actually assigned to the Criminal Investigation
7 Section on October 2015, correct?

8 A That's correct.

9 Q All right. And that section, as you testified to,
10 involves the internet crimes against children?

11 A When I was first assigned to Criminal Investigations?

12 Q Yes.

13 A I was assigned initially to property crimes and then
14 transferred over to digital crimes.

15 Q All right. So with regard to the digital crimes, how
16 long have you been in that position?

17 A I think approximately six or seven months.

18 Q Six or seven months. All right. And prior to your
19 position with regard to Criminal Investigation Section, you
20 were a patrol duty officer for eight years?

21 A Correct. I worked patrol, where I investigated
22 various criminal investigations.

23 Q Okay. And with regard to your investigation in this
24 case, didn't you take over for Detective William Elrod on June,
25 or on July 2016?

1 A July 25th, 2016, that's correct.

2 Q Okay. And for approximately two and a half months or
3 so, the very first time you actually reviewed any of the
4 reports, cyber tip information and such, was approximately at
5 the end of September/mid-October, isn't that true?

6 A It very well could be. I mean, I can --

7 Q Okay. Would you like me to refresh your recollection
8 with regard to the police report that you provided?

9 A Sure.

10 Q Okay.

11 MS. CHOI: If I may approach the witness, Your Honor?

12 THE COURT: Yes.

13 THE WITNESS: Okay.

14 BY MS. CHOI:

15 Q Does this document refresh your recollection?

16 A Correct, it does. At the time --

17 Q Okay. Great. And so it's, it's true that you took
18 over July 25th, 2016?

19 A That's correct.

20 Q All right. And the very first time that you actually
21 decided to review the investigation and the evidence collected
22 was somewhere around October 18, 2016?

23 A That's when the supplement was written --

24 Q Okay.

25 A -- I believe.

1 Q So when did you actually review?

2 A I can't recall, ma'am.

3 Q So are you saying that after you looked over your
4 supplemental report, that you don't, you don't remember the
5 date that you actually started reviewing the evidence in this
6 case?

7 A So I would've come home from Alabama from a five-week
8 training in August of, I believe August 17th or 18th. I still
9 had multiple investigations involving property crimes. I had
10 to get acclimated to the investigations that were given to me
11 to -- that were transferred from Detective Elrod to myself. I
12 don't recall when the first time I took a look at the cyber tip
13 or took a look at the report.

14 Q All right. So if I tell you that it might be
15 somewhere around late September when I received an e-mail from
16 you, would that refresh your recollection with regard to when
17 you started looking at the evidence?

18 A It could be very possible. Like I said, I was in
19 Alabama for five weeks. So that's very possible.

20 Q Okay. And was that the five-week training with
21 regard to the investigation of alleged knowingly possessed, the
22 child pornography, or is that with property crimes?

23 A No. This deals, what's called BCERT, Basic Computer
24 Evidence Recovery Training. It involves digitally analyzing
25 computers and evidence.

1 Q Okay. And with regard to your training that you've
2 testified to that you have, are these training sessions one
3 month, one week, one day?

4 A With regards to the Alabama one, that was five weeks.
5 The other ones, they can be one day to various, and some of the
6 other trainings that I've attended, for example, Griffeye
7 training, that was about a week. So it just, it just varies.

8 Q All right. And, and it's my understanding that
9 you're actually going to go into a one-month mandatory training
10 with regard to investigating these kinds of --

11 MS. KING: Objection, Your Honor. Counsel is
12 testifying. This -- facts aren't in evidence.

13 MS. CHOI: It's about his training, Your Honor.

14 THE COURT: Overruled.

15 MS. CHOI: Thank you.

16 BY MS. CHOI:

17 Q So it's my understanding that in the month of June,
18 this month, that you're going to be involved in a one-monthlong
19 mandatory training with regard to investigating these kinds of
20 cases, correct?

21 A That would be incorrect.

22 Q Okay. And since you've only been involved in these
23 kinds of cases in the last six months or so, is this your very
24 first time leading an investigation with these charges?

25 A With regards to digital crimes?

1 Q No, not with digital crimes; with regard to
2 possession of child pornography.

3 A Correct.

4 Q All right. So this is your very first case?

5 A First case that went to trial, but I was assigned
6 other cases that Detective Elrod had.

7 Q Okay. So how many cases did you inherit from
8 Detective Elrod?

9 A I believe it was approximately three cases.

10 Q All right. So the others pled out?

11 A I don't --

12 Q Do you know the resolution of those cases?

13 A Currently one, I think, pled out. I don't know the
14 resolution of the other one.

15 Q Is it still pending?

16 A It potentially is, yes.

17 Q Oh, okay. And so this is the very first time you're
18 actually testifying with regard to a
19 possession-of-child-pornography case?

20 A That's correct.

21 Q Okay. And you've never been cross-examined with
22 regard to all the different kind of techniques and all the
23 investigative steps that you took with regard to possession of
24 child pornography?

25 A That would be correct.

1 Q Okay. Now, do you recall that in October 17, 2016,
2 that you received a letter from myself?

3 A If you could show it, maybe it could refresh my
4 memory.

5 Q Sure.

6 MS. CHOI: If I may approach the witness at this
7 time, Your Honor?

8 THE COURT: (No audible response.)

9 MS. KING: Counsel, could I see what you're showing?

10 MS. CHOI: Oh, yes, sure. And just for the record,
11 I'm showing Detective Snyder a report.

12 BY MS. CHOI:

13 Q Now, can you take a look at this document?

14 A Correct, I recall this.

15 Q Okay. Great. And does this document refresh your
16 recollection with regard to my question?

17 A It does, yes.

18 Q Okay. So in October 18 or so, or 17, you received a
19 letter from me --

20 A I recall --

21 Q -- through Corporal Romeril?

22 A I recall me e-mailing you first and then receiving a
23 letter.

24 Q Correct. And the date of the report that I just
25 showed you was about October 18, October 19?

1 A That very well could be correct.

2 Q Yes. Okay. And in that letter, which I'm not going
3 to get into the contents of, essentially prompted you to review
4 all of the evidence involved in this case, isn't that true?

5 A That would be incorrect.

6 Q Okay. So when you're handling evidence in a child
7 pornography case, I would imagine that you'd have to be extra
8 careful to not alter or taint in any way any of the evidence
9 that you're collecting, correct?

10 A When we get the evidence, it already has hash values,
11 and that evidence is secured in, whether it's, whether it be
12 Frederick County Sheriff's Office property or the property of
13 Homeland Security, but hash values are verified to, to confirm
14 the integrity of the evidence.

15 Q So when you receive, for example, annoying letters,
16 annoying letters from defense attorneys, do you normally put
17 that into the system as part of your evidence?

18 A Sure.

19 Q Okay. And so in this situation did you do that? Did
20 you specifically do that? Do you recall?

21 A I did after I requested the passwords for the iPad
22 that would help us speed up the investigation, to see if there
23 were any evidentiary value to that device.

24 Q Okay. And with your recollection to these letters,
25 do you recall if I sent an extra letter on October the 24th?

1 A Ma'am, I believe at some point you sent a letter with
2 some additional passwords on it. You did send a letter to
3 Corporal Romeril at some point.

4 Q Okay. Now, I'm going to show --

5 MS. CHOI: Your Honor, if I may approach the witness
6 at this time?

7 THE COURT: (No audible response.)

8 (Bench conference follows:)

9 MS. CHOI: I just established the fact that when
10 Detective Snyder receives information such as from myself, that
11 he loads it up into the system -- I guess, I/LEADS -- and it
12 becomes part of the evidence, the case file. That's what I've
13 established.

14 MS. KING: And he's already established that. So --

15 MS. CHOI: Yes.

16 MS. KING: -- I don't understand what the --

17 MS. CHOI: So when I received the State's discovery,
18 Your Honor, one letter, the very first letter that I sent that
19 he acknowledged was intact. It was exactly the same in the
20 case file because it has the State's Bates number. The second
21 letter that I sent has been completely altered. I'm --

22 MS. KING: Your Honor, she's making herself a witness
23 in the case.

24 MS. CHOI: No, no, I'm not. What I'm saying is I'm
25 going to ask him to describe the fact that the two letters are

1 completely different, and he just testified that all of the
2 evidence are not altered, they're not tampered in any way, but
3 here are two letters I sent -- I'm not asking about the
4 substance of the letters -- the format of the letters are
5 vastly different. One letter is exact copy of the original.
6 The second letter, completely altered. The entire, the entire,
7 like, alignment is off, Your Honor --

8 MS. KING: Your Honor --

9 MS. CHOI: -- first of all, and I can understand, if
10 it was software that extracts or redacts numbers to protect
11 information, privacy, I understand, then it would have happened
12 in this case as well, but this is pursuant to his very first
13 investigation in an incredibly significant trial for this
14 defendant. I think that I should be given a little bit of
15 leeway to find out why and how he can explain that these two
16 letters, not the content of, has been altered.

17 MS. KING: Your Honor, it's misleading to the jury to
18 talk about altering a letter from this defense attorney without
19 the opportunity to talk about the contents of it, because we
20 would be making her a witness if we were to talk about the
21 content of it --

22 MS. CHOI: We're not talking about the content.

23 MS. KING: -- and she already concedes that it's to
24 format. She can cross-examine him as to format and not try to
25 confuse the jury as to --

1 MS. CHOI: So the two originals are here.

2 THE COURT: This is the original?

3 MS. CHOI: That's the originals, and that's actually
4 a copy of the original, and it's date-stamped, Bates-stamped
5 the State's. This is what I got from the State, and it's
6 altered and different from the original.

7 THE COURT: So this is the original?

8 MS. CHOI: Yes, that was an original. That's, that's
9 the altered copy of this original, and the reason why, Your
10 Honor, it's significant is because at the tail end of the
11 police report, he has one page that says unapproved; he then
12 attributes an IP address that is my client's home address as
13 having uploaded these images. That goes directly to Counts 1
14 through 8.

15 So, Your Honor, I believe that he is covering up his
16 tracks. I believe that there are evidence, pieces of evidence
17 that are being altered to suit his needs, and that's what I'm
18 exploring, because that's what I need to do. We can redact the
19 substance.

20 MS. KING: Your Honor, this is confusing to the
21 State, as alone to the jury. I mean --

22 MS. CHOI: We can --

23 MS. KING: -- she's talking -- I mean, she stated
24 that --

25 MS. CHOI: We can redact the substance of -- it has

1 nothing to do with the case, Your Honor. The substance of the
2 letter is self-serving. I would absolutely acknowledge that.
3 I would redact that, but the form itself, it should be an exact
4 copy of the original letters and it's not, and I will tie that
5 in at the end of cross-examination when there is an extra entry
6 on an unapproved supplemental report that has information --

7 THE COURT: All right. Everybody hold on. Let me,
8 let me look at it.

9 MS. CHOI: The substance have nothing to do with it.
10 I don't want that in. That's not what I want.

11 MS. KING: Well, you can't, you can't separate it.

12 MS. CHOI: Yes, you can. It's just form. It's
13 different. If there's evidence tampering, then I have to show
14 it.

15 THE COURT: This letter was sent to Corporal --

16 MS. CHOI: Yes.

17 THE COURT: -- Romeril.

18 MS. CHOI: Correct.

19 THE COURT: What would this witness know about --

20 MS. KING: Exactly.

21 MS. CHOI: He received it. Corporal Romeril
22 forwarded it to him. It is in the police report, specifically
23 on pages 25 of 33, and it states specifically that he received
24 this letter from Corporal Romeril.

25 THE COURT: Is Corporal Romeril going to testify?

1 MS. KING: No, Your Honor. That's --

2 MS. CHOI: This is not being offered for the truth of
3 the matter, Your Honor. It's being offered to show --

4 THE COURT: But my, my question is --

5 MS. CHOI: -- that there is alteration, and the
6 reason why that's important, Your Honor, is because this is his
7 very first investigation.

8 THE COURT: But, but my question is, what would he
9 know about these letters?

10 MS. CHOI: Because he is the lead detective, Your
11 Honor. He is the one present in court. He's the one who
12 testified that he reviewed all of the reports, everything in
13 the case file pretty much. That's what --

14 THE COURT: All right. Now --

15 MS. CHOI: -- his testimony is, Your Honor.

16 THE COURT: -- now, let me --

17 MS. CHOI: He took over for --

18 THE COURT: This, this is the --

19 MS. CHOI: -- Detective Elrod.

20 THE COURT: Hold on. Hold on. When I'm looking at
21 something -- and I'm directing this to both of you -- give me a
22 minute, and then I'll ask questions. Okay? Don't continue to
23 argue. All right. Now, this is, I'll call it the offending
24 letter because you say it's different than the others.

25 MS. CHOI: Yes.

1 THE COURT: All right. Now, you got this how?

2 MS. CHOI: Through the State's discovery.

3 THE COURT: Okay. Did you get all of these in
4 State's discovery?

5 MS. CHOI: Yes. I got this in the State's
6 discovery --

7 THE COURT: Right.

8 MS. CHOI: -- and then I got this in the State's
9 discovery, and I can ask him, certainly, if he saw a copy of
10 the letter that I sent to Corporal Romeril, which has been
11 forwarded to him and stated in his police report that he
12 received it, and he can say, no, I didn't get that.

13 THE COURT: All right. I'm, I'm going to allow you
14 to explore it; however, I don't want you referencing content in
15 any way --

16 MS. CHOI: No, wouldn't do that, Your Honor.

17 THE COURT: -- and if it's admitted, I'm going to,
18 I'm going to instruct the jury that the content is irrelevant.

19 MS. CHOI: We can redact it. I don't want the
20 content to be --

21 MS. KING: Your Honor --

22 MS. CHOI: -- self-serving in any way. That is not
23 my -- that is not what I'm trying to do, Your Honor. I --

24 MS. KING: Your Honor --

25 MS. CHOI: -- would be happy to redact the whole

1 thing.

2 MS. KING: -- if I could be heard?

3 THE COURT: Now, this one has a different date
4 than --

5 MS. CHOI: There's --

6 THE COURT: -- this one.

7 MS. CHOI: Right. There's two letters, Your Honor.
8 The reason why -- this letter is the exact copy --

9 THE COURT: This is the copy, right?

10 MS. CHOI: -- of the original. Right.

11 THE COURT: Yes. Is this the original?

12 MS. CHOI: This is the original. That's a copy of
13 this original, which is altered.

14 THE COURT: But --

15 MS. CHOI: I'm showing you the two different --

16 THE COURT: -- these two are --

17 MS. CHOI: Exactly. They're two different letters,
18 and I'm showing you -- if both of them were altered this way, I
19 would give the State the benefit and say it's some program that
20 redacts numbers, I get it, that's fine --

21 THE COURT: All right. I'm going to give you an
22 opportunity to explore --

23 MS. CHOI: -- that's not the same.

24 THE COURT: -- but I'm going to instruct the jury
25 that they're not, if it's admitted, that they're not to --

1 MS. KING: Your Honor, I would ask that it -- can I
2 be heard?

3 THE COURT: You have been already.

4 MS. CHOI: Okay. I'll get to this.

5 (Bench conference concluded.)

6 MS. CHOI: Thank you.

7 BY MS. CHOI:

8 Q Detective Snyder --

9 MS. CHOI: Court's indulgence. I'm actually going to
10 circle back to this issue a little bit later.

11 BY MS. CHOI:

12 Q Now, with regard to you reviewing the actual items
13 that were seized, isn't it true that upon your review of all of
14 the listed items that were seized from the raid, you realized
15 that nine of the seized items were not examined at all?

16 A There were items that weren't examined from the
17 search warrant, not the raid, but yes.

18 Q Okay. So you actually listed -- isn't it true that
19 you listed nine items, in particular, with the item number and
20 a description of each of those items, and they totaled nine out
21 of the 27 that were seized?

22 A It very well could have been. We examined some DVDs
23 and some thumb drives, which have -- which weren't examined by
24 Forensic Examiner Steve Gibson.

25 Q All right. So -- and that was sometime in October,

1 obviously?

2 A It very well could have been.

3 Q Okay. And none of these seven electronically related
4 items have any possibility of connecting to the Internet,
5 correct, on its own?

6 A You connect the thumb drive to the computer. We, can
7 you --

8 Q Right. So when -- the items that I'm talking about,
9 the nine items that were actually not examined until late
10 October --

11 A Okay.

12 Q -- these are thumb drives, as you described in the
13 supplemental report, discs, storage drives, all of that.

14 A Okay.

15 Q That doesn't require -- that does require some device
16 in order to actually connect to the Internet, is that true?

17 A You can view those devices without connecting to the
18 Internet.

19 Q Correct. Right. And most of these, you would, are,
20 would -- you would agree, are mostly thumb drives, flash
21 drives, anything that contains, they're SD cards that -- things
22 that contain storage ability?

23 A Correct.

24 Q Okay. And isn't it true that with regard to the
25 investigation of defendants and child pornography, that through

1 your training and experience, you're being told to look for
2 large volumes of child erotica, child porn, inappropriate
3 photographs, isn't that true?

4 A I mean, I, I can't say -- I can't tell you that one
5 person versus the other, whether they're going to have a large
6 amount of child pornography or a little bit of, a little bit of
7 child pornography.

8 Q I'm not asking about that. I'm asking about your
9 training. Do the instructors say to you, this is --

10 A We're trained to look for child pornography.

11 Q Okay. So is it one child pornography, or do you look
12 for big numbers of photographs and images that these defendants
13 would want to keep for future reference, to hide and, and to
14 store and, and hoard? Is that what your training helps you to
15 look for?

16 A We're trained for both, ma'am. I mean, regardless of
17 whether you have a lot of child pornography or a little child
18 pornography, it doesn't matter to me.

19 Q So within the six-month period of time, so you don't
20 have any kind of profile with which you're going to investigate
21 a case like that? Whether they have one image or many, many
22 images, it doesn't matter to you?

23 A I mean, we have a standard, but I wouldn't say I
24 profile a person.

25 Q Okay. So a standard?

1 A So we have a procedure of how that digital evidence
2 is examined. I didn't examine that digital -- with regards to
3 the item that was, where child pornography was located, I
4 didn't examine that device.

5 Q Okay. So out of the 29 items seized, only two items
6 were documents, correct?

7 A You'll have to refresh my memory. I know --

8 Q Okay.

9 MS. CHOI: If I may approach the witness at this
10 time?

11 THE COURT: (No audible response.)

12 THE WITNESS: -- I was not on the search warrant,
13 ma'am.

14 BY MS. CHOI:

15 Q Right, but you're the lead detective now, aren't you?

16 A Correct.

17 Q And you're testifying here for the very first time on
18 a child pornography case?

19 A Correct.

20 Q And so I would assume that you're going to be very
21 prepared, that you're going to figure out exactly how many
22 items were seized during the search warrant execution because
23 you weren't there. Am I correct in assuming that?

24 A Correct, I was not at the search warrant.

25 Q Right, but you're going to be very proficient with

1 regard to how many items were seized because this is the very
2 first time you're actually going to be testifying in a case?

3 MS. KING: Objection, Your Honor. Counsel is asking
4 -- first, she's asking questions that she's asked already and
5 facts that have been already established, and she's testifying.
6 I'd ask her to just direct the question to the detective.

7 THE COURT: Well, this is cross-examination. I'll
8 overrule.

9 BY MS. CHOI:

10 Q How many items were seized, Detective Snyder?

11 A So it appears to be a total of 29 items that were
12 seized during that search warrant.

13 Q All right. And can you tell me, how many devices or
14 any kind of electronically related items were there out of the
15 29?

16 A I would have to add them up, ma'am, but I know at
17 least one of them contained child pornography.

18 Q Out of the items seized?

19 A Correct.

20 Q Okay. Do you have the forensic computer annals
21 background to state that with an absolute certainty?

22 A He provided me his report when he reviewed that Acer
23 laptop.

24 Q Who is he --

25 A Forensic --

1 Q -- when you are --

2 A Forensic --

3 Q -- pointing to the right?

4 A Forensic Examiner Steve Gibson with Homeland
5 Security.

6 Q How many documents were actually seized in the search
7 and seizure warrant?

8 A When you say documents, are you talking about
9 physical paper documents or --

10 Q Right, I'm talking about physical paper documents.

11 A I don't know, ma'am.

12 Q Would two ring a bell?

13 A Potentially.

14 MS. CHOI: If I may approach the witness at this
15 time?

16 THE COURT: (No audible response.)

17 MS. CHOI: Madam Clerk, if I can have this marked as
18 1?

19 THE CLERK: Yes.

20 (The document referred to was
21 marked as Defendant's Exhibit
22 No. 1 for identification.)

23 MS. CHOI: Thank you.

24 THE CLERK: You're welcome.

25 BY MS. CHOI:

1 Q Detective Snyder, I'm showing you what's been marked
2 as Defendant's No. 1. Do you recognize that document?

3 A I do, ma'am.

4 Q Okay. What is it?

5 A It's a receipt from Micro Center. It is dated -- I
6 can't -- 3/21/2016 for an Acer.

7 Q For the Acer laptop?

8 A Correct.

9 Q And pursuant to your testimony, is the Acer laptop
10 where the three images of alleged child pornography was found?

11 A On the laptop? Correct.

12 Q On what date?

13 A I would have to take a look, ma'am, again.

14 Q Okay. You don't know the dates of the offenses?

15 A I know the child pornography cyber tip was sent on
16 March 3rd, 2016 --

17 Q Well, what --

18 A -- but there were multiple dates, creation dates on
19 the images that were located on that Acer laptop.

20 Q Okay. So when you filed your application for
21 statement of charges on November 2nd, 2016 --

22 A Okay.

23 Q -- would it be correct to say that you actually used
24 March 3rd, 2016, for all of the 11 counts that you asked for
25 charges against this defendant, Mr. Mallik?

1 A Yes, and that would have been a clerical error on my
2 part.

3 Q Okay. So a clerical error on your part. Which of
4 those counts would be applicable to the clerical error that
5 you're talking about? Which counts?

6 A The counts that go beyond the six -- so the six
7 initial charges were the ones, the images that were located
8 from the cyber tip. The remaining charges would have been the
9 ones, I believe it was, I think there were three more
10 additional charges, I believe, that were from this Acer device.

11 Q Okay. So if I'm doing my math right, you've got six
12 counts that are from March 3rd, 2016, correct, from the cyber
13 tip?

14 A From the cyber tip, correct.

15 Q And then you've got three images that are from the
16 Acer laptop, correct?

17 A Okay.

18 Q And that is not March 3rd, 2016?

19 A That's correct.

20 Q Okay. Am I missing two images, because he's charged
21 with 11 counts?

22 A He very well could be, ma'am, and if I am, those
23 images were also located on an Acer laptop, and again, it was a
24 clerical error with the date.

25 Q Okay. So now you're saying that the two additional

1 counts for which Mr. Mallik is being charged with is not March
2 6, 2016, but it was a clerical error because those images were
3 found in the Acer laptop?

4 A So six images were --

5 Q So definitely --

6 A -- were located on the cyber tip March 3rd. The
7 remaining images were located on his device. If I put the
8 wrong -- obviously I did put the wrong date when I charged
9 that, and that is my fault.

10 Q Okay. So when, when we look at this receipt of the
11 Acer laptop -- and the dates are very important in this case,
12 right, because everything happened very close in time. Do you
13 agree with that?

14 A I agree that it's important with regards to the cyber
15 tip to be able to trace the IP addresses, but what was found on
16 the defendant's laptop, it is what it is.

17 Q All right. So what I've seen so far, based on the
18 information and evidence that was admitted, all of the dates
19 sort of hover around either March or April. Are you saying
20 that there are other dates involved?

21 A I never said that.

22 Q Okay. Would you disagree with that statement, that
23 the dates involved in this case are somewhere between March
24 and, March and April, possibly February?

25 A I would have to look over the dates, specifically at

1 the creation dates of all those files, but that very well could
2 be the case.

3 Q Okay. So, so with regard to this, Defense Exhibit
4 No. 1, this is the receipt for the Acer laptop for which now
5 five counts of the child pornography was found in the Acer
6 laptop, correct?

7 A Correct.

8 Q Okay. Now, did you take this photograph?

9 A I did not.

10 Q Because it's --

11 MS. CHOI: Your Honor, I would move to admit this
12 document.

13 MS. KING: It's already been admitted.

14 MS. CHOI: Okay.

15 THE COURT: This is Defendant's 1?

16 MS. CHOI: This is Defendant's 1. If I may --

17 THE COURT: All right. Defendant's Exhibit 1 is
18 admitted.

19 (The document marked for
20 identification as Defendant's
21 Exhibit No. 1 was received
22 in evidence.)

23 MS. CHOI: Thank you. If I may publish this to the
24 jury?

25 THE COURT: (No audible response.)

1 BY MS. CHOI:

2 Q Now, Detective Snyder, when you made the clerical
3 error of using the date March 3rd, 2016, that Acer laptop
4 wasn't purchased until March 21st, 2016, is that correct?

5 A If that's what it says on the receipt, that's
6 correct.

7 Q Okay. And so the only images that are involved in
8 this particular case are six images on March the 6th, 2016,
9 that were uploaded into a Gmail account that is owned by
10 Mr. Mallik --

11 MS. KING: Your Honor --

12 BY MS. CHOI:

13 Q -- correct?

14 MS. KING: -- counsel is misstating facts in
15 evidence. Detective Snyder already testified that he found
16 eight images on a Gmail account that was admitted as, as a
17 State's exhibit, and now she's misstating it as six
18 purposefully. She's misstating the facts in evidence. There
19 are eight images that were, that were on the e-mail account --
20 and that's already been admitted -- and three images on the
21 Acer laptop, which has already been admitted. She's misstating
22 it purposefully for the, for the --

23 MS. CHOI: Actually, Your Honor, I'm not. It is
24 Detective Snyder who said that the six uploads came from the
25 cyber tip, because that's exactly what the report says, is six,

1 and in fact, that is what his testimony is if we review it. He
2 then said that three of the images in the 11 counts -- and I
3 gave him the 11 counts -- said came from Acer. Now, if I do my
4 math correct and I ask him six plus three is nine, we've got
5 two images missing, he then said those two images came from the
6 Acer laptop.

7 So, no, I did not mischaracterize the testimony, Your
8 Honor. I am trying to simply cross-examine a witness who's
9 testified that that's what he found.

10 THE COURT: Just for everyone's clarification,
11 Detective, can you restate where these images came from, how
12 many from cyber tips, how many from the laptop?

13 MS. KING: And, Your Honor, just for clarification,
14 the cyber tip is separate from the Gmail account. The cyber
15 tip did not capture all of the pornography. So when we, when
16 we direct Detective Snyder to explain, it should be referred to
17 as what was contained in his Gmail account versus what was
18 contained in the Acer laptop.

19 MS. CHOI: Well, Your Honor, okay, so this is
20 cross-examination. If the State really wanted to explain
21 exactly where everything came from, then that was the State's
22 burden. I'm now on cross-examination. I should not be told or
23 dictated on how I'm supposed to do that. I'm supposed to find
24 out if this witness, who is here to testify as the lead
25 detective in his very first child pornography case, where my

1 client is charged with 11 counts, facing five years each --

2 MS. KING: I would object, Your Honor, to
3 counsel's --

4 MS. CHOI: -- I get to --

5 THE COURT: Don't editorialize.

6 MS. CHOI: All right. I won't, Your Honor. I will
7 withdraw that, but I get to ask questions.

8 THE COURT: All right. I'll overrule the objection.

9 MS. CHOI: Now I lost my train of thought. All
10 right. Your Honor, if I may approach the witness at this time?

11 THE COURT: (No audible response.)

12 MS. CHOI: And for the record, we've already
13 stipulated to this exhibit. It's part of the search warrant
14 inventory and the photographs that were taken pursuant to all
15 of the items.

16 BY MS. CHOI:

17 Q Detective Snyder, I'm showing you what's now been
18 marked as Defendant's No. 2. Do you recognize that document?

19 A I do, ma'am.

20 Q Okay. What is it?

21 A This is a password list that was recovered from the
22 search warrant that contains various passwords, including a
23 Dell and various, looks like online, some online passwords as
24 well.

25 Q Okay. Great. And this was seized during the search

1 and seizure warrant execution, which you weren't a part of?

2 A Yes.

3 Q But you do, you do recognize this pursuant to your
4 review of the case and getting ready for the trial?

5 A I have seen this document, yes.

6 Q Okay. And you testified with regard to the iPad --

7 A Yes.

8 Q -- and that you didn't have a password for that.

9 A Correct.

10 Q Is it -- would you agree that Mr. Mallik was
11 cooperative in trying to find out what that password was?

12 A No.

13 Q Okay. And this --

14 MS. CHOI: Your Honor, because it's already been
15 admitted, I would like to publish this for the jury at this
16 time.

17 THE COURT: Exhibit?

18 MS. CHOI: Number 2, Defendant's No. 2.

19 THE COURT: All right.

20 MS. KING: State's not opposed.

21 BY MS. CHOI:

22 Q Okay. So, Detective Snyder, while the jury is
23 looking at the list of passwords, do you know how many
24 passwords were provided to you?

25 A I don't know the exact number. It was multiple

1 passwords provided to us for the iPad, none of them which
2 worked.

3 Q For the iPad?

4 A Correct.

5 Q Okay. And then you essentially, or the search and
6 seizure warrant execution, which you weren't a part of,
7 essentially took all of his devices, all of Mr. Mallik's
8 devices, correct?

9 A I can't say if we took all devices. I wasn't there.

10 Q You would -- okay. So if he's the subject of a
11 search and seizure warrant, you would expect that the officers
12 trained in that, into doing that, that they would seize all of
13 his devices and everything that has to do with electronic
14 storage, correct?

15 A From my experience, normally devices are previewed on
16 scene. If they don't contain anything that seems relevant,
17 they're not taken. So, no, not every device would be taken.

18 Q Fair enough. Okay. So with regard to this extensive
19 list of the passwords, is it your testimony that because you
20 couldn't, I guess, unlock the iPad, that Mr. Mallik was not
21 cooperative?

22 A It seems to me that you have a very meticulous
23 password list. I find it very odd and unusual that you
24 wouldn't know the password for your iPad, considering that that
25 list is very thorough.

1 Q Okay. So you've now taken all of his devices that
2 contained potentially any kind of evidence involved in this
3 digital crime and you've taken the actual list of the
4 passwords. Are you now saying that Mr. Mallik, who has an
5 extensive list of passwords, is now automatically supposed to
6 remember a password?

7 A I find that unusual.

8 Q Okay. And so you believe, or is it your personal
9 experience with regard to this investigation that Mr. Mallik
10 wasn't cooperative in providing passwords or potential
11 passwords for the iPad? Is that correct?

12 A Can you state the question one more time?

13 Q Was Mr. Mallik cooperative in trying to figure out
14 what the password was for the iPad?

15 A He provided, yes, he did provide passwords or you
16 provided passwords for him. I believe, based on that list,
17 though, I find it very unusual that your defendant didn't know
18 the, the password for that device.

19 Q Okay. So as early as July 2016, did you see e-mails
20 between Detective Elrod and myself with regard to various
21 passwords to actually try to open the iPad? Did you see those
22 e-mails?

23 A No, ma'am. I would have been in Alabama, and I
24 didn't have access to Detective Elrod's e-mails. I know you
25 did -- eventually, when I e-mailed you requesting passwords,

1 you did e-mail me back.

2 Q Oh, okay. So that's what I'm talking about. So I'm
3 talking about around October 19th, when you picked up reviewing
4 all the evidence, did you and I correspond via e-mail with your
5 e-mail address, jasnyder@frederickcountymaryland.gov --

6 A Correct.

7 Q -- with regard to potential passwords? Do you
8 remember that?

9 A I do.

10 Q And so then is your testimony that Mr. Mallik wasn't
11 cooperative in trying to give you the passwords that he could
12 remember?

13 A He provided some passwords.

14 Q Okay. And he didn't have any devices on him, right,
15 after the search and seizure warrant that would have had any
16 kind of evidence that would relate to this case?

17 A I was not there, ma'am, so I can't answer that
18 question.

19 Q All right. So do you remember all of your passwords
20 on all of your devices?

21 A I have an app that contains all my passwords and --

22 Q Okay. How do you access that app, through what
23 device if it's --

24 A Through my mobile device.

25 Q Okay. So if your mobile device was actually seized

1 at a search and seizure warrant and you're not -- and
2 everything has been disabled in terms of your e-mail account,
3 how are you going to access that app?

4 A There was a spreadsheet that was provided.

5 Q So the spreadsheet was given to law enforcement --

6 A Or located during the search warrant.

7 Q Right -- and the device that actually generated that
8 Excel spreadsheet with the passwords was also taken. How else
9 is Mr. Mallik going to remember the password?

10 A I can't testify how that spreadsheet was created,
11 ma'am.

12 Q Were you aware that Mr. Mallik came to Detective
13 Elrod before his retirement to provide a voluntary interview?

14 A I was.

15 Q Okay. Were you also made aware that Mr. Mallik
16 brought with him a defective ASUS router?

17 A Yes, based on watching the interview, yes.

18 Q Okay. So you watched the entire interview?

19 A Correct.

20 Q And how long was the interview? Do you recall?

21 A I know it was pretty extensive. I can't tell you off
22 the top of my head how long the interview was.

23 Q All right. And before the interview actually took
24 place, did you see that Mr. Mallik signed his constitutional
25 right to remain silent?

1 A Yes --

2 Q Okay.

3 A -- that would have been attached in the I/LEADS
4 attachment.

5 Q Right. Right. And pursuant to that interview, did
6 you see Mr. Mallik physically try to give to Detective Elrod
7 this ASUS router?

8 A I don't recall, ma'am. It was an extensive
9 interview. I did see your defendant bring that device to the,
10 to the meeting, and he explained to Detective Elrod what he
11 thought was wrong with that device, but whether or not he
12 motioned to give that to Detective Elrod, I don't know.

13 Q Okay. Fair enough. Fair enough. But you did hear
14 ample information with regard to the problems he was having
15 with that router?

16 MS. KING: Objection.

17 THE COURT: You did hear -- repeat the question.

18 MS. CHOI: Did you hear --

19 MS. KING: If we could approach so she's not --

20 THE COURT: No. I want to hear the question first.

21 MS. CHOI: Did you hear --

22 MS. KING: But, Your Honor, I believe she's trying to
23 proffer a hearsay statement. If we could approach?

24 THE COURT: Ask the -- I'm not asking for an answer.
25 Just repeat the question.

1 MS. CHOI: Did you hear from Mr. Mallik that he had
2 problems with his ASUS router?

3 MS. KING: Objection. It's hearsay. He's, he's --
4 she's just tainted the jury with saying what the defendant
5 said.

6 MS. CHOI: Your Honor --

7 THE COURT: Well, I think the defendant's statements
8 are always admissible. So I'm going to overrule.

9 BY MS. CHOI:

10 Q All right. So after having reviewed the video -- and
11 it was also audio-recorded --

12 A Correct.

13 Q -- did Mr. Mallik explain to Detective Elrod the
14 problems that he had with this ASUS router?

15 A He did.

16 Q And did he also tell Detective Elrod with regard to
17 how objectionable child pornography is to him?

18 THE COURT: Now, how would he know that?

19 MS. CHOI: Because that was part of the interview,
20 Your Honor.

21 MS. KING: Your Honor, if we could approach on this
22 issue?

23 THE COURT: Hold on, Ms. King.

24 MS. CHOI: It's part of the interview, Your Honor.
25 It was recorded, and it was videotaped. He actually signed

1 away his constitutional rights to remain silent. We have a
2 transcription, with a certificate of transcription, of the
3 entire interview. He obviously reviewed it, Your Honor. I'm
4 just asking him one simple question with regard to part of that
5 interview, and Mr. Mallik is here too. So --

6 THE COURT: And --

7 MS. CHOI: It's a statement that he said.

8 THE COURT: And the witness was present during --

9 MS. KING: No, Your Honor, the witness is not present
10 at this interview. This is a motion-in-limine issue.

11 Statements by the defendant cannot be used only -- can only be
12 used by the party opponent, and we settled this during our
13 motion in limine, that Ms. Choi was not going to get to enter
14 into evidence the testimony of her defendant without
15 cross-examining the detective that was present. Detective
16 Snyder was not present at that interview.

17 MS. CHOI: Your Honor, I'm actually going to back off
18 from that.

19 THE COURT: All right. I'll --

20 MS. CHOI: Thank you, Ms. --

21 THE COURT: -- sustain if he wasn't present.

22 MS. CHOI: That's fine. It's okay. I can move on.
23 I can move on to other things. Now, for the record, I'm
24 providing a copy to the State. If I may approach the witness
25 at this time?

1 THE COURT: (No audible response.)

2 BY MS. CHOI:

3 Q Detective Snyder, I'm showing you what's been marked
4 as Defendant's No. 3. Do you recognize that?

5 A I've seen this image. I don't know exactly what --
6 it appears to be some sort of ID card.

7 Q Okay. Is, was that part of the group of photographs
8 that were taken from the search and seizure?

9 A I wasn't there, but I believe so, yes.

10 Q Okay. All right. So if I, if I tell you that this
11 is, has been stipulated between the State and the Defense as
12 part of the search and seizure warrant photographs, would that
13 jog your memory that this might actually be part of that?

14 A I do recall it being in the part of -- in the
15 photographs, yes.

16 Q Okay.

17 MS. CHOI: Your Honor, if I may publish to, this to
18 the jury at this time?

19 THE COURT: This is exhibit?

20 MS. CHOI: This is exhibit, Defense No. 3. It's
21 already been admitted as pursuant to the stipulation.

22 THE COURT: Okay. Very good.

23 MS. KING: These are photographs contained in that
24 packet, Your Honor.

25 THE COURT: All right.

1 MS. CHOI: Thank you.

2 BY MS. CHOI:

3 Q Detective Snyder, with regard to that photograph,
4 when was the very first time that you actually saw Mr. Mallik
5 in person?

6 A I observed -- physically in person?

7 Q Yes.

8 A Today, but I observed him through his MVA photo and
9 also during the interview.

10 Q Now, turning your attention to the actual counts of
11 the images that are involved, which is really the meat of this
12 case, for Count No. 1, image called index.39 jpg, .jpg, you do
13 not know where that image originated from, isn't that correct?

14 A It originated from Mr. Mallik's Comcast IP address
15 and from his, from his Gmail account. It was sent by his Gmail
16 account.

17 Q Okay. And for Count No. 2, image index 6.png, you
18 don't know where that image originated from, isn't that true?

19 A You advised index 6.png, ma'am?

20 Q Correct. Image No. 2 in Count No. 2.

21 A It originated from Mr. Mallik's IP address and sent
22 from Mr. Mallik's man.maryland Gmail account.

23 Q Okay. And with regard to Count No. 3, Image No. 3,
24 index.png, you do not know where that image originated from?

25 A Again, it was sent from Mr. Mallik's IP address,

1 which was contained in Mr. Mallik's man.maryland Gmail account.

2 Q And with regard to Count No. 4, image index.png, you
3 do not know where the image actually originated from, isn't
4 that correct?

5 A Again, it originated from Mr. Mallik's IP address and
6 sent from Mr. Mallik's man.maryland Gmail account to his Yahoo
7 account.

8 Q Okay. And for Count No. 5, Image No. 5, as well as
9 Count No. 6, image called index 5.png, you do not know where
10 these images actually originated from, isn't that true?

11 A Again, ma'am, it was sent from the defendant's Gmail
12 account, which traces back to the defendant's IP address, and
13 is sent to the defendant's Yahoo account.

14 Q Okay.

15 MS. CHOI: Your Honor, if I may approach the witness
16 with the cyber tip exhibit?

17 THE COURT: (No audible response.)

18 THE WITNESS: The cyber tip is here, actually.

19 BY MS. CHOI:

20 Q Oh, sorry.

21 A Yeah.

22 Q Yes. Okay. All right. So with regard to
23 Mr. Mallik's home IP address, just to make it a little bit
24 easier for myself and the jury, can we just call it the first
25 two digits?

1 A 74 or 76?

2 Q Yes --

3 A Okay.

4 Q -- 76.

5 A Yes.

6 Q Okay. 76. So for Counts 1 through 6, or is it 1
7 through 8?

8 MS. KING: 1 through --

9 MS. CHOI: 6?

10 MS. KING: -- are you asking me?

11 MS. CHOI: Well, because I'm going to refer to the
12 cyber tip. So 1 through 6? I don't want to mischaracterize
13 it.

14 MS. KING: If we could have the Court's indulgence?

15 THE COURT: (No audible response.)

16 BY MS. CHOI:

17 Q So with regard to Counts 1 through 6, do they involve
18 the images that was reported by cyber tip?

19 A Correct.

20 Q Okay. So your testimony has been that Counts 1
21 through 6, those images originated from Abe Mallik's home
22 address?

23 A So the IP address on there is the VPN that's
24 associated with Hide My Ass. When we contacted Hide My Ass,
25 they advised that --

1 MS. CHOI: Objection, Your Honor. I believe he's
2 going to go to hearsay.

3 MS. KING: He's --

4 (Bench conference follows:)

5 MS. CHOI: I think he might say hearsay. He might --

6 MS. KING: It's not hearsay. He's, he's saying based
7 off of the certified report.

8 MS. CHOI: Oh, okay.

9 MS. KING: Yes.

10 MS. CHOI: If he can say that, if he can qualify his
11 statement based on his certified report, then I'd be okay.

12 MS. KING: You can say, how do I know, and he should
13 say --

14 MS. CHOI: Oh, oh, okay.

15 (Bench conference concluded.)

16 BY MS. CHOI:

17 Q All right. So, Detective Snyder, let me rephrase the
18 question, and -- okay. So for Counts 1 through 6, the images
19 that were involved in the cyber tip, where was the location of
20 the IP address?

21 A The IP address was associated with Hide My Ass, the
22 VPN.

23 Q What city and state is that IP address in?

24 A I don't recall, ma'am.

25 Q All right. So if I tell you it's in Ashburn,

1 Virginia, would that ring a bell?

2 A It wouldn't surprise me with a virtual private
3 network.

4 Q Okay. If I tell you that on page 58, the images that
5 are involved in Counts 1 through 6, 1 through 6 indicate an IP
6 address where the actual location is Ashburn, Virginia, would
7 that ring a bell?

8 A Sure, but it wouldn't surprise me.

9 Q Okay. So did you have a chance -- so you're saying
10 that the uploads took place at Abe Mallik's home IP address,
11 76?

12 A So that IP address that you pointed out to belongs to
13 Hide My Ass, which is a virtual private network. That account,
14 that Hide My Ass account is associated with Abe Mallik, and if
15 you know how a virtual private network can be used, you can
16 obscure your IP address. So conceivably, I could be here in
17 Frederick, but my IP address could be in Tucson, Arizona, or it
18 could be in London, England.

19 Q Okay. Great. I understand that part. So with
20 regard to this VPN, this virtual private network, when was the
21 very first time that Mr. Mallik actually had it installed in
22 his Acer laptop?

23 A I don't know, ma'am.

24 Q Did you take a look at Steven Gibson's forensic
25 report when reviewing for this case and preparing for this

1 case?

2 A Correct. Yes.

3 Q Okay. And in that report, pursuant to your
4 investigation and preparation for trial, would you agree that
5 the date of the installation of this Hide My Ass VPN was March
6 the 23rd, 2016?

7 A Very well could have been, but there's other devices,
8 such as the iPad, which we have not been able to access, but
9 that date could be, could be correct.

10 Q So are you saying that with regard to this software,
11 HMA, the virtual private network, that his purchase, that one
12 license that he receives, allows him to put this software,
13 this, this hiding software on two devices?

14 A It very well could be.

15 Q All right. Did you take a look at the website which
16 this company provides?

17 A I did, ma'am.

18 Q Okay. And then would you agree that if you purchase
19 this software, the Pro version, which is what Mr. Mallik had,
20 that you get two devices?

21 A It's fair enough.

22 Q Okay. So when you get these two devices and you use
23 this one license, isn't it true that you get two different IP
24 addresses? You don't get the same one. You don't get 74.
25 You'll get something else, even though it's one license,

1 because the website says so.

2 A That's a question that would probably be best
3 directed to Hide My Ass. I mean, I can tell you that you can
4 choose, from my experience you can choose different IP
5 addresses, but yeah, I -- with regards to your specific
6 question, I don't know.

7 Q You don't know. It's on the website of this company
8 for which you are --

9 MS. KING: Your Honor, I would, I would object.
10 She's --

11 MS. CHOI: I could --

12 MS. KING: -- it's question, I mean --

13 MS. CHOI: -- give it to him.

14 MS. KING: -- facts not in evidence. She's
15 testifying as to what a website says. This website is not in
16 evidence.

17 MS. CHOI: Your Honor, if I may have some indulgence,
18 and I will give him the piece of paper from which I'm asking
19 these questions, which involve --

20 THE COURT: Show, show counsel.

21 MS. CHOI: For the record, I'm providing a copy to
22 counsel.

23 MS. KING: And I would object to the document for
24 lack of authentication.

25 THE COURT: Say it again.

1 MS. KING: Lack --

2 MS. CHOI: But I'm not, I'm not going to admit it.
3 I'm just going to ask him questions about it, because he did
4 say that he looked at the website of this company called HMA,
5 this virtual private network. He testified that he did. So
6 this is part of their website, and I can ask him about it.

7 THE COURT: All right. Overruled.

8 MS. CHOI: Thank you. If I may approach the witness
9 and have this marked?

10 THE COURT: (No audible response.)

11 (The document referred to was
12 marked as Defendant's Exhibit
13 No. 4 for identification.)

14 BY MS. CHOI:

15 Q So for the record, I'm showing you what's been marked
16 as Defendant's No. 4. Okay? Can you just take a look at that?

17 A Yes.

18 Q Okay. So --

19 A Yep.

20 Q -- with regard to the software that would mask
21 Mr. Mallik and give him a different IP address, such as 74,
22 which is in Ashburn, Virginia, if he purchased one license,
23 does this software allow two devices to have access to a
24 virtual private network?

25 A I can read you what it says on their website.

1 Q Sure. Go ahead.

2 A It says, but every device has to be connected to a
3 different VPN server. It says, you can run Hide My Ass Pro VPN
4 software, up to two different devices per account.

5 Q And keep going.

6 A The other way to set up a, a -- other way to set up
7 Hide My Ass VPN, on your router -- your router has to support
8 this -- which allows you to connect as many devices as you
9 would like to your router, so all traffic gets routed through
10 the virtual private network.

11 Q So when you read this -- and it might not be very
12 clear to the regular person who's not really involved in
13 digital crimes and such -- is it my understanding that when you
14 buy one license, which is what Mr. Mallik did in this case, as
15 you know from the investigation, that two devices can have this
16 -- can be used?

17 A That's what it says --

18 Q Correct.

19 A -- on their website, ma'am.

20 Q And when two devices are used, two IP addresses will
21 be generated, correct?

22 A Devices, but every device has to be connected to a
23 different VPN server.

24 Q That's what it means, right --

25 A Yep.

1 Q -- different IP addresses? So if the iPad actually
2 had this installed, because you can't open the iPad, and you're
3 testifying and alluding to the fact that Mr. Mallik put the HMA
4 on his Acer laptop and potentially the iPad, because that was
5 never broken into, you're testifying that those two devices
6 could have had this software to hide his identity, hide his IP
7 address, correct?

8 A It's plausible.

9 Q Okay. But then the uploads that involved the six
10 images all came from one IP address, which was the one in
11 Ashburn, Virginia?

12 A Correct.

13 Q All right. And you're trying to attribute that
14 Mr. Mallik was at home connecting to the virtual private
15 network on March the 3rd and then uploading on his Gmail
16 account this alleged child pornography. Is that what you're
17 saying?

18 A During the time frame that we talked about, March the
19 3rd?

20 Q Okay.

21 A Correct.

22 Q Okay. So his Acer laptop, which had the HMA
23 installed, because, as you know, Steven Gibson's report says
24 that this software was installed in Mr. Acer's laptop --
25 Mr. Mallik's Acer laptop -- was March the 23rd, 2016, correct?

1 A Correct.

2 Q And all of the logs from the HMA, the business
3 records that contained all of the logins from April 1st through
4 April 21st, when the seizure took place and the device was no
5 longer available, all of those logins were 74, correct?

6 A I would have to take a look at the logins. I believe
7 there was 58, but --

8 Q So all of the logins from this software, HMA, shows
9 that on his Acer laptop, the IP address specifically associated
10 with that laptop, that device, was 74?

11 A So it gives the IP address. It doesn't tell -- those
12 IP logins don't attribute to where that device, or what device
13 Hide My Ass was installed on. It says basically that -- it
14 attributes all those 58 logins to Mr. Mallik's Comcast IP
15 address. It doesn't say that those IPs came from an Acer
16 laptop or they came from an iPad. So --

17 Q I'm not asking you that. What I'm asking is,
18 Mr. Mallik's Acer laptop's IP address through this software is
19 74?

20 A Correct, his home, his Comcast IP address.

21 Q No. His home IP address is 76. His HMA IP address
22 in Ashburn, Virginia, is 74 --

23 A Fair enough.

24 Q -- and the counts that involve 1 through 6 is where
25 Ashburn, Virginia -- allegedly Mr. Mallik went to the virtual

1 private network in Ashburn, Virginia, using this software, then
2 opened up his Gmail account, hiding his identity at home, which
3 is a 76 IP address, uploaded various child pornography images
4 from that location, correct?

5 A From the IP address that you attributed? Correct.

6 Q And you just read that when another device, like an
7 iPad, is going to be installed with the same software, that
8 that 74 IP address is not going to be used.

9 A Ma'am, I can't tell you what specific device the
10 child pornography was sent. I can tell you about the IP
11 addresses.

12 Q I'm not asking --

13 A Oh.

14 Q -- about that. I'm asking about exactly what you
15 read. What you read --

16 A Sure. Fair enough. If you're reading that from the
17 website, that's fair enough.

18 Q Okay. So what you read was, if the iPad had the
19 software that you couldn't open because Mr. Mallik was so
20 uncooperative in giving you the password, then basically that
21 software is going to attribute an IP address that's not 74 but
22 a different number, correct, according to this website?

23 A Based on reading their website.

24 Q Then how in the world was the Acer laptop used to
25 upload these images using the 74 IP address on March the 3rd

1 when he purchased it on March the 23rd? Do you understand what
2 I'm asking?

3 A Correct. Yes.

4 Q Eighteen days later, how is Mr. Mallik supposed to
5 upload these images through his device, because there's only
6 two devices that could have the virtual private network once he
7 purchased this? So that Acer laptop wasn't purchased until
8 March the 21st.

9 A That's correct.

10 Q Then how could he possibly connect from the Acer
11 laptop to the virtual IP address in Ashburn, Virginia, to
12 access his Gmail account when he didn't have the device on
13 March the 3rd?

14 A Clearly, if that device, when that device -- clearly
15 that device was purchased after the fact; then, correct, he
16 wouldn't be using that device to upload the child pornography.

17 Q So then what -- your testimony is inconsistent and
18 can't support Counts 1 through 6.

19 A I would disagree with you.

20 Q Then where did the 74 IP address come from, because
21 you have the HMA logins that say that the Acer laptop, which
22 was --

23 MS. KING: Objection, Your Honor. She's, again,
24 assuming facts not in evidence. There's nothing that says that
25 that IP address is attached to that laptop. That IP address

1 could be attached to the iPad.

2 MS. CHOI: Okay. I'll move on.

3 BY MS. CHOI:

4 Q So the second part of this is -- and if you need to
5 refresh your recollection --

6 A Sure.

7 Q -- I could certainly give you that part -- what is
8 the question posted on the support page of that website?

9 A The question is, can I use my Hide My Ass VPN
10 accounts on multiple computers?

11 Q Okay. Would -- can you actually read the exact
12 question instead of elaborating on all of the evidence?

13 A So where is the --

14 Q It doesn't say what you just said.

15 A Can I use my Hide My Ass --

16 Q Okay. Now --

17 A HMA?

18 Q Yes.

19 A Can I use my HMA VPN account on multiple computers?

20 Q Okay. And what's the answer?

21 A I provided the answer: Yes, you can run HMA Pro VPN
22 client software, up to two different --

23 MS. KING: Your Honor, this is asked and answered.
24 We've --

25 MS. CHOI: Okay.

1 MS. KING: -- kind of given counsel a lot of leeway
2 in establishing this. We're kind of -- asked and answered.

3 MS. CHOI: I'm getting to the second part of the
4 question, which is the --

5 THE COURT: All right.

6 MS. CHOI: -- answer I didn't get yet.

7 BY MS. CHOI:

8 Q The other way, if, let's say that this is correct,
9 the iPad, the Acer -- let's say that he had child pornography
10 allegedly on the iPad and there would be another IP address,
11 correct, because the Acer had allegedly three porn images and
12 it was attributed to the 74 IP address, correct? I'll withdraw
13 that. Let me ask a different question.

14 Is it possible from multiple devices, more than two,
15 maybe 10, maybe 20, to actually connect to one IP address based
16 on that information on the website of this company?

17 A With regards to the --

18 Q Yes.

19 A -- HMA account?

20 Q Yes.

21 A It says you can run up to two different devices but
22 you can also have it on your router.

23 Q Okay. So if your router is configured in a way, you
24 can have multiple devices with one IP address, correct?

25 A Based on what HMA advises, that's correct.

1 Q Okay. So -- now, during the interview, Mr. Mallik
2 did provide information with regard to problems he had with his
3 ASUS router, correct?

4 A Correct. Yes.

5 Q Okay.

6 MS. KING: Again, Your Honor, I would object. This
7 is --

8 MS. CHOI: Okay.

9 MS. KING: -- we're getting back into the interview
10 and what the defendant said.

11 MS. CHOI: I'll move on.

12 THE COURT: He wasn't present at the interview,
13 right?

14 MS. CHOI: I'll move on, Your Honor. I apologize.

15 THE COURT: All right.

16 MS. CHOI: Okay.

17 BY MS. CHOI:

18 Q Detective Snyder, how many individuals actually
19 examined the iPad?

20 A So I know Forensic Examiner Steve Gibson from
21 Homeland Security examined it. You would have to ask him. I
22 believe that iPad was sent down to HSI's facility, but you
23 would have to ask him. I also know that I also brought that
24 iPad to FBI's facility as well.

25 Q Okay. Now, in the last part of your report -- and

1 this would be State's discovery page 801 -- I'm curious about
2 something.

3 MS. CHOI: Court's indulgence.

4 BY MS. CHOI:

5 Q There was information about the logins with regard to
6 March the 3rd, 2016. Do you remember putting that information
7 into your report?

8 A I would have to review the report again, but yes, I
9 more likely than not put that information into my report, yes.

10 Q Okay. And you specifically attributed the IP address
11 of Mr. Mallik's home to have logged in to his Gmail account,
12 correct?

13 A I would need to review my report again.

14 Q Okay. You don't remember these very important
15 details?

16 A Well, I would have written the fact that those IP
17 addresses from the cyber tip came from the VPN which is, which
18 is associated with Mr. Mallik's residence.

19 Q Okay. With regard to the Verizon BlackBerry that was
20 seized pursuant to this case, no child pornography was found,
21 correct?

22 A That device -- from my recollection, we weren't able
23 to access that device as well.

24 Q I thought your testimony was that of the 27 devices
25 and/or electronically related items, that the iPad was the only

1 one that you couldn't access. Is your testimony now incorrect?

2 A That would have been an error on my part, yes. We've
3 never been able to access that, that BlackBerry, and that
4 BlackBerry has since been given back to Mr. Mallik's employer.

5 Q And that employer, what's his name?

6 A James Sawyer, I believe, from the FDA.

7 Q And is that the very same person that Mr. Mallik
8 whistle-blew on that you know of?

9 A I don't know the full details of your client's
10 allegations. I can only say based on what I observed on that
11 video.

12 Q That's the same supervisor?

13 A I believe so.

14 Q Okay. So you actually met with him back in December
15 of 2016, correct, to return the BlackBerry?

16 A That would have been correct, very briefly.

17 Q Okay. So now you're saying -- your testimony now is
18 that the silver iPad with the black casing could not be opened?

19 A Correct.

20 Q The Verizon BlackBerry was returned to Mr. Mallik's
21 immediate supervisor, James Sawyer, without being opened or
22 examined?

23 A It was never examined, that's correct.

24 Q The white Apple iPhone that was seized during the
25 search warrant execution, that had no child pornography in it,

1 correct?

2 A No.

3 Q The Hewlett-Packard EliteBook that was also seized
4 had no child pornography in it as well, right?

5 A That's correct.

6 Q The Nikon D60 that was seized had no child
7 pornography in it, correct?

8 A Correct.

9 Q The Canon FS200a camcorder had no child pornography
10 in it, correct?

11 A That's correct.

12 Q The Sony Cyber-shot had no child pornography in it,
13 correct?

14 A Correct.

15 Q The 2G, the gigabyte, SD card had no child
16 pornography in it, correct?

17 A Correct.

18 Q The SanDisk MicroMate had no, no child pornography in
19 it as well?

20 A That's correct.

21 Q The DataJack Novatel Wireless had no child
22 pornography in it?

23 A Correct.

24 Q The 32-gig SD card called Blue South Asia had no
25 child pornography in it?

1 A That's correct.

2 Q The CD Mother Goose, that DVD or CD had no child
3 pornography in it, correct?

4 A Correct.

5 Q The pictures from 11/2009 CD had no child pornography
6 in it, correct?

7 A That's correct.

8 Q The disc Frankenweenie, 2012, had no child
9 pornography in it, correct?

10 A That's correct.

11 Q The TDK CD-R 80/700 megabyte, 80 minutes, had no
12 child pornography in it, correct?

13 A Correct.

14 Q The Dell Latitude E5550, tag, big serial number, had
15 no child pornography in it?

16 A That's correct.

17 Q The Hitachi high-def, serial, big number, from Dell
18 tower had no child pornography in it?

19 A That's correct.

20 Q The SanDisk 16-gigabyte flash drive had no child
21 pornography in it, correct?

22 A Correct.

23 Q The -- that's a receipt. Oh, I'm sorry. Micro
24 Center 4-gigabyte thumb drive had no child pornography?

25 A That's correct.

1 Q The Seagate port drive 1.5TB, long serial number, had
2 no child pornography in it?

3 A That's correct.

4 Q The Seagate port drive 2TB, long serial number, had
5 no child pornography?

6 A That's correct.

7 Q The WB external drive, serial number starting with
8 WC, had no child pornography in it?

9 A Correct.

10 Q The Seagate 4TB, Serial No. NA with a lot of digits,
11 had no child pornography in it, correct?

12 A Correct.

13 Q The Seagate 1.5TB, Serial NA, lot of digits, had no
14 child pornography in it?

15 A That's correct.

16 Q And lastly, Seagate 1000 gigabyte, Serial 2GE with
17 other digits on it, had no child pornography in it?

18 A That's correct.

19 Q The only child pornography that is allegedly in
20 knowing possession of Mr. Mallik is on the Acer laptop, to your
21 knowledge, correct?

22 A That's correct.

23 Q And that Acer laptop was purchased on March the 21st,
24 2016, correct, pursuant to that receipt?

25 A Correct.

1 Q And according to Steven Gibson's forensic report,
2 that HMA virtual private network software was installed on that
3 Acer laptop on March the 23rd, 2016, correct?

4 A Correct.

5 Q And it is your understanding that the HMA VPN
6 software can then connect multiple devices through a router to
7 one single IP address, correct?

8 A Correct, based on what you showed me from their
9 website.

10 Q Okay. So you would agree with me, with regard to the
11 clerical error that you made on Counts 9, 10, and 11, that
12 there's no possible way that March 3rd, 2016, the offenses or
13 the images could have been found on the Acer laptop? Correct?

14 A Correct. That was a clerical error, yes.

15 Q Okay. And so when you filed the application for
16 charges back in November 2nd, 2016, you didn't pick up on that
17 clerical mistake?

18 A No, ma'am.

19 Q And when the State filed its criminal information,
20 outlining the 11 counts, on December 2nd, 2016, you didn't
21 notify her that the dates were incorrect, correct?

22 A Ma'am, I didn't pick up on that date.

23 Q Okay. And at what point did you pick up on that date
24 that that date was wrong?

25 A I can't tell you -- I can't give you a definitive

1 time. I mean, that was clearly my fault, and I can't tell you
2 when I picked up on that, but --

3 Q Was it months ago, weeks ago, days ago?

4 A No, it very well could have been a month ago.

5 Q A month ago?

6 A Very well could have been, ma'am. I, I can't give
7 you a specific time frame of when I became aware of it, but
8 nevertheless --

9 Q Okay. So as soon as you became aware of the fact
10 that the three counts 9, 10, and 11, the date of the offense
11 cannot possibly be March 3rd, 2016, when did you find out and
12 when did you tell Ms. King?

13 A Ma'am, I don't recall.

14 MS. CHOI: Your Honor, if I may approach?

15 THE COURT: (No audible response.)

16 MS. KING: Approach the bench?

17 MS. CHOI: Yes.

18 (Bench conference follows:)

19 MS. CHOI: Your Honor, as you know, when we did the
20 pretrial motions and we did the motion to amend, Ms. King did
21 proffer that after she came back from maternity leave, that she
22 identified that the dates were incorrect and that it was a
23 clerical error, that in her good-faith effort, she changed
24 that, and I absolutely believe that to be true. However, based
25 on this testimony, what's actually true is that he is the one

1 who found out the date, doesn't know when he did it, doesn't
2 know when he told her but that it had to be fixed.

3 I believe that having amended the dates unduly
4 violates Mr. Mallik's right to notice. It is unfair surprise,
5 and I would renew my objection with regard to that and ask that
6 Your Honor reconsider that decision based on the testimony
7 provided by this officer. He has no idea when he did any of
8 this stuff.

9 THE COURT: Did what?

10 MS. CHOI: He has no idea what he did and when he did
11 it and that I don't think that there's good cause in any way or
12 a good-faith effort on his part to correct a clerical mistake
13 that had an incredible bearing on Mr. Mallik's life. I would
14 ask that those three counts be reconsidered and we would just
15 pursue on the other eight.

16 MS. KING: Your Honor, it's highly -- Your Honor
17 already ruled on amending the counts. We're in trial.
18 Jeopardy has attached. It's highly, you know, it's not proper
19 to try to renew this during, during trial, and the testimony
20 was that it was a clerical error. Your Honor already found
21 that it was in good faith, that we provided notice before trial
22 started --

23 MS. CHOI: But --

24 MS. KING: -- and we already proceeded on the
25 amended -- we're already in trial on the, on the amended

1 counts.

2 MS. CHOI: But I also asked Your Honor to please
3 reserve on the fact, and we did that, that you would reconsider
4 that once you heard some testimony from the witnesses, the
5 State's witnesses, and that's why I'm renewing, because you
6 said you can renew your objection at that time again and we can
7 revisit it. That's what we did yesterday, Your Honor, and
8 that's why I'm doing this.

9 THE COURT: Or the Court could grant a motion for
10 judgment of acquittal --

11 MS. CHOI: Okay. I could do that too.

12 THE COURT: -- at the, at the end of the State's
13 case.

14 MS. CHOI: I could do that too, but I would prefer
15 that Your Honor reconsider.

16 THE COURT: Let me think about that.

17 MS. CHOI: Okay.

18 THE COURT: Let me think about that.

19 MS. CHOI: I'd appreciate it.

20 THE COURT: Now, do you have more for this witness?

21 MS. CHOI: I do have a little bit more. Do we need
22 to take a break? I sort of need a break.

23 THE COURT: Well, I'm thinking about recessing for
24 lunch.

25 MS. CHOI: Okay. Could we take a break? That would

1 be -- or the lunch?

2 THE COURT: So when we come back, we --

3 MS. CHOI: I'm --

4 MS. KING: Or can she finish cross, and then we can
5 recess? Do you have much --

6 MS. CHOI: Actually, could I just take a break?

7 THE COURT: What?

8 MS. CHOI: Could we just take a lunch break, because
9 I kind of need it physically?

10 THE COURT: I mean, I can give you five or six -- my
11 plan is to --

12 MS. CHOI: Oh, just lunch.

13 THE COURT: -- to recess no later --

14 MS. CHOI: Yes.

15 THE COURT: -- than 12:30. Can you be done by 12:30?

16 MS. CHOI: Oh, this witness?

17 THE COURT: Yes.

18 MS. CHOI: By 12:30? Like in five minutes, six
19 minutes?

20 THE COURT: Yes, your cross.

21 MS. CHOI: No, I'm not, I'm not done with him.

22 THE COURT: All right. Then we're going to --

23 MS. CHOI: Yes. No, I'm sorry, Your Honor.

24 THE COURT: -- we're going to break now.

25 (Bench conference concluded.)

1 THE COURT: All right. Detective Snyder, you can
2 step down. Ladies and gentlemen, we are going to recess for
3 lunch. We will resume at 1:45.

4 (The jury left the courtroom.)

5 THE CLERK: All rise.

6 (Recess)

7 THE CLERK: All rise.

8 THE COURT: All right. Let's bring in the jury. For
9 the record, counsel and the defendant are present at the trial
10 table. Where's Detective Snyder?

11 THE DEPUTY: He's out there, Your Honor.

12 MS. KING: He's out there, Your Honor. I can --

13 THE COURT: He can come in.

14 (The jury entered the courtroom.)

15 THE COURT: Be seated, please. Excuse me.

16 Detective, I'll remind you you're still under oath. Ms. King.

17 MS. KING: I believe it's Ms. Choi.

18 THE COURT: Oh, I'm sorry.

19 MS. CHOI: No problem, Your Honor.

20 THE COURT: Ms. Choi. I apologize.

21 MS. CHOI: Thank you. No problem.

22 CROSS-EXAMINATION (Resumed)

23 BY MS. CHOI:

24 Q Detective Snyder, with regard to your investigation
25 and after the charges were filed and, and you've moved along,

1 did there come a time sometime in May 2017, this month, that
2 you actually reached out to Comcast with regard to whether or
3 not Mr. Mallik had placed some service calls back in February
4 of 2016?

5 A I sent a court order to Comcast, correct, yes.

6 Q Yes. And, in fact, you actually received the account
7 notes from Comcast, correct?

8 A Correct. Yes.

9 Q Okay. And in those account notes, which are already
10 admitted into evidence with the certification that it's
11 authentic, it states very clearly, doesn't it, that on February
12 the 12th, 2016, Mr. Mallik called Comcast because of problems
13 that he was having with his Internet connection, correct?

14 A I know he was having problems. I don't know the
15 exact date, if I could take a look at that document, but
16 correct, there --

17 Q Sure.

18 MS. CHOI: Your Honor, if I may approach the witness?

19 THE COURT: Yes.

20 THE WITNESS: I do see that. The one I observed was
21 this, ma'am, on 4/27, and these are kind of hard to read.
22 They're kind of -- there's like a shorthand that they use, but
23 yes, he did advise he was having issues with his Internet.

24 BY MS. CHOI:

25 Q Okay. So the issues that he was having with his

1 Internet, from the records does it appear that it happened on
2 February the 12th, 2016?

3 A Do you mind if I take a look at this closer?

4 Q No. Go ahead.

5 A I'll be quite honest, like I said, this is in kind of
6 shorthand, so it's kind of hard to read. I can read it.

7 Q Sure. Go ahead.

8 A It says, Abe Mallik verified account through IVR,
9 updated YIP comments, sub declined TP; per sub, okay to add
10 Blast free, 12 months.

11 Q Okay. Okay. So if I can direct your attention to
12 the last entry on February the 12th, 2016, can you read that
13 part?

14 A Advised Abe Mallik slow HSI, informed that they are
15 getting 29 Mbps DS, informed that the speed is correct because
16 they have performance.

17 Q Okay. And you have a background in digital crimes,
18 correct?

19 A I don't have a background when it comes to
20 deciphering what -- how, how Comcast does their shorthand.

21 Q Fair enough. Fair enough. Okay. Then on April the
22 27th was there a call made to Comcast from Mr. Mallik?

23 A I have to verify it through that. You'd have to show
24 me.

25 Q Okay. Sure.

1 A Correct. Yes.

2 Q Okay. And do you want to read that?

3 A Sure. Abe CI about his Internet. CUST said that it
4 stopped last night, already reset the modem, still connection
5 is not working; he connects his laptop directly to the modem,
6 still no connection, refreshed the modem and checked for
7 connection slash EDUC; the CUST, that the modem is considered
8 EOL; connect, works after reset.

9 MS. CHOI: Your Honor, if I may approach the witness?
10 The parties have already stipulated to the account notes of
11 Comcast to be included in with the actual business record.

12 MS. KING: She can have that marked as Defense
13 Exhibit, I think --

14 MS. CHOI: If I can have this marked as No. 5?

15 (The document referred to was
16 marked as Defendant's Exhibit
17 No. 5 for identification.)

18 MS. KING: The State doesn't object.

19 MS. CHOI: And then, Your Honor, if I can publish to
20 the jury?

21 THE COURT: It is admitted.

22 (The document marked for
23 identification as Defendant's
24 Exhibit No. 5 was received
25 in evidence.)

1 BY MS. CHOI:

2 Q Now, with regard to the Yahoo, with regard to the
3 Yahoo logins --

4 MS. KING: Your Honor, if I may approach the witness?

5 THE COURT: (No audible response.)

6 BY MS. CHOI:

7 Q Detective Snyder, I'm showing you what's already been
8 admitted as State's No. 11. You recognize that, right?

9 A Correct.

10 Q The Yahoo login log?

11 A From callme_tim.

12 Q Yes. Okay. And that's involved in this case, in
13 particular, because it was the recipient e-mail of the six
14 images?

15 A Correct.

16 Q Okay. Now, did you have a chance to look at the
17 login log?

18 MS. KING: And if I could, that's eight, eight
19 images. I don't know if you misspoke.

20 MS. CHOI: I'm sorry. Okay. That one I misspoke. I
21 apologize, Your Honor.

22 BY MS. CHOI:

23 Q The eight images. Did you have a chance to look at
24 the login history?

25 A I did.

1 Q Okay. And so obviously the majority of the logins
2 come from Mr. Mallik's home IP and also his work IP, correct?

3 A Correct.

4 Q So what is IP that starts with 87? Would you know
5 what IP address that is in the log?

6 A Would you mind if I take a look at the log?

7 Q Oh, not at all. Please do.

8 A And where are you referring to?

9 Q Okay. So they're not numbered pages; however, if you
10 can follow me here. They are here. This --

11 A This is the one dated April 5th?

12 Q Yes.

13 A So with regards to the IP address, I don't have any
14 idea.

15 Q You have no idea. So somebody logged in to that
16 e-mail account, and you don't know who it belongs to --

17 A I don't know who --

18 Q -- or where it came from?

19 A Yeah. I don't know who that IP address is
20 associated --

21 Q Okay. So how --

22 A -- what ISP.

23 Q Okay. So how about the next page? If you can turn
24 that over, there's an IP address of 64.187, and that's on March
25 the 26th.

1 A I see that.

2 Q Okay. And then do you also see further down the line
3 173.199, March 24th?

4 A I do.

5 Q Okay. So let's fast-forward a little bit back in
6 time to March 3rd, which is the relevant date, correct?

7 A Correct.

8 Q All right. So there's some logins here: 107.169.
9 Do you know who that belongs to?

10 A I do not.

11 Q Or where it came from?

12 A No.

13 Q Okay. Now, you would agree with me that that is a
14 very pivotal, critical date, correct?

15 A Correct.

16 Q And somebody else is logging on to this account from
17 somewhere. We have no idea who it is?

18 A Correct, we don't know who it is, correct.

19 Q Okay. And then -- so there's another entry with an
20 IP address, if you turn the page, no, the other way, that has
21 an IP address of 5.62.16, and that's on March the 7th --

22 A Yep.

23 Q -- close in time, and you have no idea whose IP
24 address that is?

25 A No.

1 Q Okay. And then -- so March 8th, 2016, very close in
2 time to everything that's going on, if you can see the IP
3 address 192.171.253 --

4 A I see that.

5 Q -- you have no idea who that is?

6 A That's correct.

7 Q And so throughout this entire log of the Yahoo
8 logins, there's a lot of different IP addresses that you can't
9 attribute or basically identify, correct? It could be anybody?

10 A Correct, but there's a lot of IP logins consistent
11 with the Comcast account as well.

12 Q Yes. Right. Sure. We're not saying that Mr. Mallik
13 didn't log in to his Yahoo account. What we're saying is, and
14 you would agree, that others, or different locations and
15 different devices have actually logged in to this account?

16 A I mean, I can't say. I mean, you're asking me
17 others. I mean, certainly, at some point that e-mail account
18 was accessed by other IP addresses who I don't know the
19 identity to, correct.

20 Q Okay. So did you have a chance to, in your
21 preparation for trial and testimony for the first time, go
22 through all the different IP addresses and summarize in your
23 log that you provided for the jury, to, you know, make it look
24 easier and for a pattern to emerge, did you also address all of
25 these logins?

1 A With respect to --

2 Q That log that you provided. That's the summary.

3 A Correct. What was the question?

4 Q So did you include all of these IP addresses that you
5 don't know the origin of, the location of, devices connected to
6 it, who actually did it, logged in to it, did you provide that
7 in the log?

8 A There are, there are other IP addresses in there.
9 I'm just trying to think, you know, if those IP addresses are
10 in there as well. Could I refer to that log?

11 Q Well, okay. I mean, it's all right. I can find out.

12 A I mean, there are hundreds of IP addresses --

13 Q That is in the log?

14 A -- that are combined with the man.maryland and the
15 Yahoo. If you combine the whole totality, there's a lot of IP
16 addresses in there --

17 Q Okay. So --

18 A -- I don't know, I don't know every IP address in
19 there.

20 Q So the log itself has hundreds of different IP
21 addresses?

22 A The, the Excel spreadsheet has, has hundreds of
23 logins from, from IP addresses, yes.

24 Q Okay. So that's a different answer. Are you saying
25 that there's a specific IP address, such as Mr. Mallik's home,

1 that has hundreds of logins from that IP address, or are you
2 saying there are a hundred different IP addresses logging into
3 that maryland Gmail account?

4 A There are several hundred logins. I believe for the
5 Gmail account, it was 50-plus logins to his personal, his
6 residence, and like 29-plus to the, to his work.

7 Q Okay. So for this, for this Yahoo account that is
8 the recipient e-mail account for, for the eight images, you
9 didn't tally up the total of how many foreign IP addresses were
10 logging into this account?

11 A I did not.

12 Q Okay. Did you have a chance to look at and review
13 the search warrant that was involved in this case?

14 A I would have reviewed it, yes.

15 Q You would have reviewed it. Okay. And would you
16 agree that persons who are the target of such investigation
17 would have a collection of child pornographic material if it's
18 in the search warrant application?

19 A It's not uncommon, but can I say with 100 percent
20 definitive that they have a collection?

21 Q You can say whatever you want.

22 A So it's not uncommon, but they might not, you know,
23 have a huge collection as well.

24 Q Okay. So in Mr. Mallik's specific case, because
25 that's really the only important thing that we have right now,

1 was there a large collection of child pornographic material
2 that was found in any of the 27 devices and electronic items?

3 A Not specific a large amount of child pornography.
4 There was other pornography on, in there and child erotica
5 images.

6 Q Oh, okay. With regard to digital crimes and the
7 experience that you have with that, are you familiar with
8 routers in any way and how they operate?

9 A Very basic level, ma'am. I'm not an expert when it
10 comes to routers or anything like that.

11 Q Okay. Would you know what a modem is then?

12 A I would.

13 Q Okay. When did you, when did you get the MVA
14 information to find out what Mr. Mallik looked like? When was
15 that date? Do you know?

16 A That was already included with the case file that
17 Detective Elrod had provided me. So I don't know the exact
18 date when he saw the image or how, when he printed off that
19 image of Mr. Mallik. I'm not too sure.

20 Q Okay.

21 MS. CHOI: Court's indulgence.

22 BY MS. CHOI:

23 Q With regard to the iPad, the last question that I
24 wanted to ask about that issue, on or about October 19th, did
25 you consider sending that iPad in to the FBI?

1 A I brought it down to the FBI's facility.

2 Q Okay. And what happened after that?

3 A What happened with the device or what happened --

4 Q Yes. What happened to the device?

5 A Device was brought back to the sheriff's office.

6 Q Okay. Why?

7 A The explanation is that they couldn't get into it.

8 Yeah, they weren't, unfortunately, much help.

9 Q Okay. So if an iPad device, for example, is
10 connected to an Apple computer, like a Mac, and -- do you own
11 any Apple computers or iPads?

12 A I don't, no.

13 Q Oh, okay. Did you know that there was a way to
14 bypass the password with an iPad if you just connect it to an
15 Apple computer?

16 A I didn't, ma'am, but bear in mind, that device was in
17 our possession for a while. So I don't know, would that have
18 even worked? I'm not too sure.

19 Q Well, did you plug it in to charge it, to see if it
20 would work?

21 A At some point Forensic Examiner Steve Gibson would
22 have plugged that iPad in.

23 Q Do you know for sure if he did it or not?

24 A Yes, because he tried the combination of the
25 passwords that were provided.

1 Q Fair enough. Did you try in any way to plug in the
2 iPad to see if it would work?

3 A I'm trying to remember. I know I handed it to, to
4 the device. I don't know if I -- I don't know if I physically
5 plugged it in. I don't remember, ma'am.

6 Q But you don't remember if you actually physically
7 took a piece of evidence, and instead of just handing it over
8 to the forensic computer analyst, you don't remember if you
9 actually plugged it in to see if it would work?

10 A His office is right down the hallway. I could have
11 been there while he plugged in. I don't recall.

12 Q Okay. The question is, did you --

13 A I don't recall, ma'am.

14 Q -- personally? Okay. Thank you. Now, with regard
15 to all of the counts that are involved, 1 through 11, were
16 there any actual real children involved in those counts, or are
17 they just -- not just, and I, I don't say it lightly -- were
18 they images of child pornography?

19 A There were images of child pornography that depict
20 children.

21 Q Okay. Were any real live children involved in any
22 aspect of this case where they would have been hurt or abused?

23 A Not to my knowledge.

24 Q Okay. Did you have a chance to -- when you took the
25 opportunity to look into man@maryland@gmail.com, which is the

1 offending e-mail account, did you have a chance to figure out
2 how many e-mails existed in there and how many were unread?

3 A There were a substantial amount of e-mails. I don't
4 know if you could tell. I'm just trying to think off the top
5 of my head. I don't -- you couldn't tell which ones were read
6 or unread. To me, they came all unread.

7 Q Okay. So, if I understand, what you're saying is,
8 when child pornography images are being extracted from an
9 account or a device, there is a specific algorithm -- I'm just
10 trying to be as simple as possible -- that that would pick up
11 those images. Am I right in summarizing that?

12 A So from my understanding, there's something called
13 hash --

14 Q Yes.

15 A -- or PhotoDNA --

16 Q Yes.

17 A -- where, if a photo or if an image matches a known
18 image of known pornography, it will hit and flag it. I can't
19 talk specifics about what Google does, whether they actually
20 put eyes on a physical image as well or if it's just through
21 that hashing algorithm.

22 Q Okay. Okay. Fair enough. All right. So, to your
23 knowledge, you don't know if somebody's actually clicking on
24 all of these e-mails, correct? You saw an account with a lot
25 of unread e-mails, substantial amount of unread e-mails.

1 A You can see if it was sent to, sent to an account. I
2 don't know if anyone actually clicked on it or opened it.

3 Q So, so I guess it's common -- is it common, with
4 regard to your training and investigative work, for the
5 defendant of a child pornography case to actually take the risk
6 twice of having it in one Gmail account or an e-mail account
7 and sending it to another that he owns, another, second e-mail
8 account? Is that something that's common?

9 A It's not something that I experience, but I can't say
10 whether it's common or not. I mean, it's up to -- that's kind
11 of up to the person whether or not, you know -- I can't get
12 into the person's mind to figure out why, you know, they did
13 what they did.

14 Q I'm not asking for you to get into anyone's mind.
15 I'm asking you, throughout your investigation --

16 MS. KING: Your Honor, he answered that he didn't
17 know if it was common or uncommon. He's already answered the
18 question.

19 MS. CHOI: He hasn't, Your Honor. I'll ask it
20 differently.

21 THE COURT: Go ahead.

22 BY MS. CHOI:

23 Q In your investigations, since you have been involved
24 in this particular type of crime, possession, knowingly
25 possessed child pornography, is it common in the investigations

1 that you've handled where a defendant of this charge is
2 e-mailing himself child pornography from one e-mail account to
3 another? Has that been common in your investigations?

4 A With respect to e-mailing himself child pornography?

5 Q Yes.

6 A This is the first case I've dealt with it.

7 Q Okay. So the two e-mail accounts you're attributing
8 to Mr. Mallik, this is the very first time that you have seen
9 where a defendant is e-mailing it to himself, risking twice the
10 risk, exposure of being caught, correct? This is the first
11 time?

12 A Correct.

13 Q Okay. I'm sorry. Did you testify as to how many
14 e-mails were in that account, the Gmail account?

15 A I testified to -- no. I said there were, there were
16 numerous. I don't know the, the exact total.

17 Q Numerous? Hundreds --

18 A Several hundred.

19 Q -- thousands? Several hundred?

20 A I would put a ballpark figure somewhere around there.

21 Q Okay. So when you, when you went into that account,
22 do you have the ability to actually screenshot what you're
23 seeing or is that not allowed, because I obviously don't
24 investigate these kinds of cases on the law enforcement level?
25 So are you allowed to screenshot that to find out how many

1 e-mails are contained in that Gmail account, that offending
2 e-mail account?

3 A Sure, I guess you could screen it, screenshot it, or
4 you could count the number of e-mails up.

5 Q Did you do that here --

6 A I --

7 Q -- to find out how many e-mails he had, because
8 potentially, he could have had 300 child pornographic images on
9 those e-mails?

10 A I reviewed all the e-mails. I can't give you an
11 exact number. I know there were several hundred, but we've
12 talked about already the images related to the child
13 pornography.

14 Q Okay. And for the Yahoo account, do you know how
15 many e-mails he had in that Yahoo account?

16 A No.

17 Q Ballpark?

18 A We never received the contents of that Yahoo account.
19 So I would have, I would have no way of knowing.

20 Q Oh, okay. Okay. So you just received that, the
21 login history with all of those foreign IP addresses, correct?

22 A Correct, the subscriber information and the IP
23 logins.

24 Q Okay. There was a little bit of an investigation
25 with regard to the man.maryland@gmail.com account, and it

1 involved an exhibit that the State was trying to enter into
2 evidence, and the girl's name, I believe, is Zoe Allen,
3 correct?

4 A Correct. Yeah.

5 Q So pursuant to this investigation, you made contact
6 with this person, correct?

7 A A detective in Georgia made contact with that female.

8 Q Oh, okay. I apologize. I did not see from this
9 report whether you did it or the Georgia officer did. So the
10 Georgia officer made contact with that individual?

11 A The Georgia officer made contact with the juvenile
12 and the juvenile's parents.

13 Q Okay. But you never made contact with that person?

14 A Correct.

15 Q So -- okay. So you don't know if it's a female or a
16 male; you're just relying on what that Georgia officer is
17 allegedly telling you about that person --

18 A I would address that --

19 Q -- because you have no personal knowledge or have met
20 with her or spoken to her in any way?

21 A I would address that two ways: number one, there are
22 images included in that e-mail of this female. I take the
23 integrity and the word of that detective that he actually did
24 speak --

25 Q Yes. Sure.

1 A -- with Zoe, and Zoe, the female, who would have been
2 12 years old at the time, confirmed that the images were indeed
3 her.

4 Q Okay. And so these images were inbound to
5 man@maryland.gmail.com; it wasn't in any way -- there were no
6 e-mails in response to that, correct? That's a fair -- that's
7 pretty fair to say?

8 A So the Gmail account just included -- with respect to
9 that, it included just conversations going inbound. There were
10 no conversations going outbound to Zoe.

11 Q So, so to be extra clear, inbound means that this
12 person, Zoe Allen, that you never spoke to, never personally
13 saw, is inbounding information to the Gmail account that
14 Mr. Mallik owns?

15 A Is sending conversations.

16 Q Sending her information to this Gmail account.

17 A Is sending correspondence.

18 Q And you saw no e-mails going outbound back to her?

19 A Correct. Gmail --

20 Q Okay. That's --

21 A -- Google did not include any of those outbound
22 messages.

23 Q Didn't you get a complete record of all of the
24 account information, including the calendar, including text
25 messages, including e-mail content? Didn't you get everything

1 from Google? Are you saying now that Google has specifically
2 excluded outbounding messages --

3 A I never said that.

4 Q -- regarding this specific person?

5 A I can't dictate what content Google has or doesn't
6 have. Based on the search warrant that was sent, they sent
7 everything that they had. Why --

8 Q Okay. So if, if the premise is correct that there is
9 a specific court order from the Circuit Court for Frederick
10 County directing them to provide every single piece of
11 information that that e-mail account has for the specific time
12 that it's required to provide, if the outbound messages that
13 Mr. Mallik allegedly might have sent to this person that we
14 don't know if she's juvenile or not, you would assume that
15 Google would have provided everything concerning that issue,
16 correct?

17 A I'm not going to assume anything. I can't dictate
18 what Google retains or what they don't retain. I don't know
19 what, what their full policies are. I can tell you they sent
20 us -- when we asked in that search warrant, they sent us
21 everything --

22 Q Yes.

23 A -- that we got.

24 Q Okay. Okay.

25 MS. CHOI: If I may approach the witness?

1 THE COURT: You may.

2 BY MS. CHOI:

3 Q Detective Snyder, do you recall during your
4 investigation that you put into your police report some
5 information that is dated -- I'm sorry, I can't see -- May 10,
6 2017?

7 A Yes.

8 Q What does the word unapproved mean on a police
9 report?

10 A It means it just hasn't been approved by a
11 supervisor.

12 Q Okay. So I'm showing you what's this document. Do
13 you recognize this document?

14 A I do.

15 Q Is this part of your police report?

16 A It would have been part of a supplement to this case,
17 correct.

18 Q Okay. So this is definitely your name, you're
19 writing the supplemental report --

20 A Correct.

21 Q -- and of all of the documents that we received from
22 the State, do any of the other reports have the word unapproved
23 in bold in capital letters on top?

24 A I don't know, ma'am. I mean, it takes a while for a
25 supervisor -- there's certain levels of when the reports have

1 to get approved when they're written. It takes a while for a
2 supervisor sometimes to look at them and approve. So I can't
3 speak whether or not all the reports that, that you have --

4 Q Okay.

5 A -- say that. I assume the majority have been
6 approved.

7 Q Okay. Well, I think you have the entire bunch --

8 A Correct.

9 Q -- of your police report. Do any of those pages,
10 because I'm going to assume that you reviewed every single page
11 to prepare for this trial since this is your very first time
12 testifying, and I'm going to assume that none of those pages
13 have the word unapproved except for the very last page of your
14 police report?

15 A I'm not going to assume anything, ma'am.

16 Q Well, your copy has the red bold stamp on it, am I --

17 A Correct. It's printed in color, but it's black.

18 Q Okay. I got it. Okay. So did you, did you review
19 all of the pages of your police report?

20 A I would have, ma'am.

21 Q Okay. And none of the other pages have the word
22 unapproved stamped on the very top in bold, red, capital
23 letters, correct?

24 A I can, I can look through it again, but from standing
25 out, it seems like that last supplement that was dated May the

1 10th.

2 Q Okay. And so, so --

3 MS. CHOI: Your Honor, at this point I would like to
4 have this marked, and I provided a copy to the, the State.

5 (The document referred to was
6 marked as Defendant's Exhibit
7 No. 6 for identification.)

8 BY MS. CHOI:

9 Q So, Detective Snyder, you obviously know what that
10 document is.

11 A Correct.

12 Q And it is genuine. It's authentic. It is a copy of
13 the same exact police report that you provided to the State,
14 correct?

15 A Correct.

16 Q So could you take a look at the last entry on
17 February the 12th, 2017?

18 A Okay.

19 Q Okay? Did you provide in there that Privax, which is
20 the parent company of HMA --

21 A Uh-huh.

22 Q -- or Hide My Ass, that they provided an additional
23 e-mail attachment that contained one additional entry that was
24 not in the logins that I initially received?

25 A Correct.

1 Q Okay. So that's part of the last supplemental note
2 that has been unapproved?

3 A Correct.

4 Q So the entry that you're talking about, the one
5 additional entry is March 3rd, 2016, the very critical date,
6 correct?

7 A That's correct.

8 Q And the IP address that you are now adding at the
9 very end of the investigation and the very end of your police
10 report is Mr. Mallik's home IP address, correct?

11 A It's the same IP address associated with the other --

12 Q With the other?

13 A -- the other logins that we received from Hide My
14 Ass.

15 Q The 74 or the 76?

16 A His home address, his home, his home Comcast account.

17 Q Okay. So with that last additional entry --

18 A Uh-huh.

19 Q -- on March the 3rd, that would support Counts 7 and
20 8, correct, because that's where he was located for Counts 7
21 and 8? We've accounted for the IP addresses for Counts 1
22 through 6. We know now that it is in Ashburn, Virginia, that
23 it is a virtual private network, correct?

24 MS. KING: 1 through 8, counsel.

25 MS. CHOI: I'm sorry. 1 through 6 from the cyber

1 tip.

2 MS. KING: Okay.

3 BY MS. CHOI:

4 Q It states very clearly that the IP address of the
5 upload of the images came from Ashburn, Virginia, which is the
6 VPN, the virtual private network --

7 A This --

8 Q -- for Counts 1 through 6, correct?

9 A This IP address that you're seeing is not the VPN IP
10 address.

11 Q Correct. This IP address is Mr. Mallik's home?

12 A Correct.

13 Q And the date of the entry that you are now adding on
14 an unapproved page of your supplemental report is March the
15 3rd, 2016?

16 A Correct, because that VPN IP address was reallocated
17 to, as we already discussed, Mr. Mallik's Comcast home address.

18 Q But isn't it true that Hide My Ass, the VPN logs,
19 they wipe out everything and so the only thing we have is April
20 1st through April 21st, the date that the item was seized?

21 A Well, I can tell you this: I initially, initially
22 received the, the logs from Hide My Ass -- it was a
23 coordination to the British government -- and then at some
24 point a conversation took place with Hide My Ass, and they
25 advised that for whatever reason that they had an additional

1 login entry, and that's what they sent over.

2 Q And you never provided a copy, did you, to the State,
3 because it's not a part of --

4 A That's incorrect. That's, it's an --

5 MS. KING: Counsel --

6 MS. CHOI: Where --

7 THE WITNESS: -- it's an I/LEADS supplement.

8 MS. KING: Counsel --

9 MS. CHOI: I'm sorry. Where is it?

10 MS. KING: That was --

11 THE WITNESS: That's incorrect.

12 MS. KING: If we could --

13 MS. CHOI: Okay.

14 MS. KING: -- if we could have the Court's
15 indulgence?

16 THE COURT: (No audible response.)

17 BY MS. CHOI:

18 Q So whatever this is, it's my understanding -- thank
19 you, Madam State -- that we don't have this document that
20 you're referring to here in this entry, correct?

21 A It was submitted into I/LEADS. I can't tell, tell
22 you what you, if you don't have it or if you do.

23 Q Okay. So I'm telling you the State is now letting
24 you know that we don't have this particular document to support
25 this entry of your report. You would agree with that?

1 A Fair enough.

2 Q Okay.

3 MS. CHOI: Your Honor, I would move to admit
4 Defendant's No. 6 at this time.

5 THE COURT: Very well. It's admitted.

6 (The document marked for
7 identification as Defendant's
8 Exhibit No. 6 was received
9 in evidence.)

10 MS. CHOI: And I would publish it to the jury. Your
11 Honor, I have nothing further for this witness.

12 THE COURT: Redirect.

13 MS. KING: Thank you.

14 REDIRECT EXAMINATION

15 BY MS. KING:

16 Q Thank you, Detective Snyder. Let's just start off
17 back in the beginning of cross-examination. Ms. Choi was
18 asking you about your qualifications, and just to clarify, in
19 the course of your years at the Frederick County Sheriff's
20 Office, can you describe to the jury other types of
21 investigations that you've done?

22 A Sure. So I investigated felony thefts, burglaries,
23 recently had a case with a bombing issue up in Catoctin High
24 School, frauds. On patrol I've investigated numerous
25 incidents, to include thefts, domestics. So the way I look at

1 it, regardless if you're on patrol or if you're a detective, at
2 some point you're handling criminal investigations at a certain
3 level. It is what it is.

4 Q And as to the time frame -- and Ms. Choi spent a lot
5 of time talking about the time frame of this investigation and
6 the delay because you were in training -- why does an
7 investigation of child pornography, possession of child
8 pornography, why does it take a long time?

9 A They can take a long time to do that deep dive into
10 the forensics. That can take a while. Bear in mind, there's
11 still one device we've never been able to access.

12 Q And there was a lot of discussions --

13 MS. KING: If I may approach the clerk, Your Honor?

14 THE COURT: (No audible response.)

15 MS. KING: Your Honor, if I could have the Court's
16 indulgence. Some of these exhibits have been interchanged.

17 BY MS. KING:

18 Q Okay. I'm showing you State's Exhibit 9 and 10.
19 Okay?

20 MS. CHOI: May I approach the witness, Your Honor?

21 THE COURT: (No audible response.)

22 MS. KING: Oh, that's --

23 MS. CHOI: I'm not really sure --

24 MS. KING: This is the, these are the --

25 MS. CHOI: Oh, okay.

1 MS. KING: Yes.

2 BY MS. KING:

3 Q Now, just to be clear, because there's a lot of
4 discussion about the images that were -- how many of those,
5 if -- were all those images located on the Gmail account?

6 A Correct, State's Exhibit 9, four images which were
7 from the man.maryland Gmail account.

8 Q And the other -- you could take a look at the other
9 set.

10 A Correct, all these images were from the man.maryland
11 Gmail account.

12 Q And you did identify eight of those images as child
13 pornography?

14 A Correct.

15 Q And the remaining three images, where were those
16 located, the three images that --

17 MS. KING: If I could approach the witness?

18 THE COURT: (No audible response.)

19 BY MS. KING:

20 Q And then these three additional images, where were,
21 of child pornography, where were those located?

22 A These were the images that were located on the Acer
23 laptop.

24 Q So, just to be clear, we're talking about two
25 different sets of child pornography?

1 A Correct.

2 Q Did -- we talked about the iPad. What agencies did
3 you, did attempt -- can you list off the agencies that
4 attempted to get into that iPad and were unable to?

5 A So it would have been Homeland Security, and I did
6 bring it down to FBI, although, I told you, they weren't much
7 use.

8 Q And who is the owner of that iPad?

9 A Mr. Abe Mallik.

10 Q Okay. And who is the owner of that BlackBerry?

11 A The owner was the, was his, was his employer, but
12 that device was being utilized by Mr. Mallik.

13 Q Is that why the property was returned back to the
14 employer?

15 A Correct.

16 Q Why wasn't the Asus router that Mr. Mallik brought to
17 Detective Elrod, why wasn't that collected?

18 A It was my understanding that the logs contained
19 within that router are perishable.

20 Q And how does it perish? What, what does an
21 individual have to do to the router for, to --

22 A So it's my understanding, once that router is turned
23 off, those logs don't exist anymore.

24 Q And was it your understanding that the defendant
25 turned off that router?

1 MS. CHOI: Objection, Your Honor. I don't know what
2 the basis for his understanding is.

3 THE COURT: Approach, please.

4 (Bench conference follows:)

5 THE COURT: Repeat the question.

6 MS. KING: I'm sorry?

7 THE COURT: Repeat the question.

8 MS. KING: Is that if he knew if that, if the
9 defendant had turned off the router besides --

10 MS. CHOI: The only way he would have known is, is,
11 is if he actually viewed the interview between Elrod and
12 Mallik.

13 MS. KING: Which he stated that he did.

14 THE COURT: I'm sorry?

15 MS. CHOI: But I wasn't allowed to ask about it.

16 MS. KING: I'm a party opponent. I'm allowed --

17 MS. CHOI: That's true, but --

18 MS. KING: -- to ask about the defendant's
19 statements --

20 MS. CHOI: -- at the same time --

21 MS. KING: -- the defendant's statements, though.

22 MS. CHOI: But it wasn't the defendant. You're,
23 you're asking about Detective Elrod and whether or not he
24 received that information from Detective Elrod, who's not here
25 to testify.

1 MS. KING: No, he can, the detective can testify as
2 to what he heard the defendant say from reviewing the
3 interview.

4 MS. CHOI: Yes.

5 THE COURT: Was he present?

6 MS. KING: No.

7 THE COURT: No.

8 MS. CHOI: He wasn't present.

9 MS. KING: It's still a -- he's reviewing the video
10 of the interview.

11 THE COURT: Reviewing the video.

12 MS. KING: Your Honor, I can save it for cross.
13 That's fine. I'll --

14 MS. CHOI: Okay.

15 MS. KING: -- I'll strike the question.

16 THE COURT: All right.

17 MS. KING: Thank you.

18 (Bench conference concluded.)

19 BY MS. KING:

20 Q Okay. Now I'm going to get into a more complicated
21 topic that I think the jury needs some explanation on regarding
22 the VPN. Okay? I'm going to direct your attention to what's
23 been already admitted as the business record for Hide My Ass.
24 When was Hide My Ass -- and you can use the pointer -- when was
25 the date of registration of Hide My Ass?

1 A February 9th, 2016.

2 Q Is that before or after March 3rd?

3 A Before.

4 Q When was the first date of payment for this as well?

5 A It says August of 2015.

6 Q And is that before or after March 3rd?

7 A Before.

8 Q And is a virtual private network associated with a
9 router or with a device?

10 A With the router, not the device.

11 Q So this program could possibly be installed on any
12 device; is that your understanding?

13 A Potentially.

14 Q I'm showing you Defense No. 5. The last call the
15 defendant, Ms. Choi -- can you turn to, I believe it was
16 February 27th?

17 MS. CHOI: April.

18 BY MS. KING:

19 Q I mean April 27th. And is that call before or after
20 the search warrant was already executed?

21 A Would have been after.

22 MS. KING: And, Your Honor, at this time, if I --
23 counsel and I could approach?

24 MS. CHOI: Sure.

25 THE COURT: Yes.

1 (Bench conference follows:)

2 MS. KING: At this time, Your Honor, the State would
3 renew -- I believe that based off the questions in
4 cross-examination, that she was able to confirm the age of this
5 individual. I believe it's more probative than prejudicial.
6 It goes to his, the defendant's prurient intent, interest in
7 children. These are imageries. The State has done the decency
8 of not even including the conversations, that these are simply
9 the images contained in those e-mails. This e-mail was already
10 admitted as, I mean, as business records. So I believe that
11 they've been authenticated, and I will stipulate to removing
12 the -- I will stipulate to removing this if the Court believes
13 that it's inflammatory, but I believe these images of girls
14 should absolutely come in.

15 MS. CHOI: Your Honor, I, the Defense would oppose,
16 the reason being is, it's nice to have little sound bites that
17 would go to his interest and his propensity to do all those
18 things, however the rules are very clear in that this witness
19 never spoke to this person, is relying on hearsay from an
20 officer in Georgia. He's never spoken to her. He's never met
21 with her. He can't identify her if she even walked in the
22 room.

23 There's no way, Your Honor, that this should come in.
24 It doesn't have any kind of probative value whatsoever. It
25 would just confuse the jury because we have no idea who this

1 person is and all we know is that it was incoming messages from
2 her to this Gmail account. He testified he doesn't know -- he
3 doesn't dictate to Google what images or what kind of e-mails
4 are going to be provided through the court order but all he
5 knows is that all of the messages that these images are have
6 been inbound to his e-mail account and nothing went outbound
7 with regard to that.

8 So, Your Honor, no, there's no authenticity in this,
9 in this case because of his testimony. Prior to that, yes, but
10 because of his testimony, that authenticity is gone.

11 MS. KING: That's not correct, Your Honor. Your
12 Honor, the State, the images are for -- it goes to the weight
13 of the evidence. As to authenticity, these are certified
14 business records. They were contained in the defendant's
15 e-mail. That's the foundation. As to the, as, as to how much
16 weight that the jury is going to give it, based off of his
17 testimony and based off what they see on these images, goes
18 to -- should be a fact for the trier of facts.

19 MS. CHOI: Your Honor, no.

20 THE COURT: Let's go back to the issue about the age.

21 MS. CHOI: Yes. He said that the only reason he
22 would know it's a juvenile is because of the Georgia officer,
23 period. He never had a conversation with her. He never
24 actually met with her, nothing. The only connection between
25 her being an alleged juvenile is that it's through the Georgia

1 officer. We don't have the Georgia officer providing any
2 statements.

3 THE COURT: Through, through the Georgia officer,
4 does that mean he orally told him or did he provide --

5 MS. CHOI: There's no information as to how that
6 communication was made, whether orally, whether in an e-mail or
7 a text between the two officers. None of that exists, Your
8 Honor.

9 MS. KING: And, Your Honor, I would argue, also, I
10 mean, this is police team theory. I mean, it's one detective
11 telling another detective what they found, and again, that goes
12 to -- I mean, for the State to have to prove intrinsic evidence
13 to -- this is not even the child pornography. I mean, this
14 goes to that these are --

15 MS. CHOI: Exactly.

16 MS. KING: -- images, but these are images of young
17 girls, and it should be left for the jury to decide whether
18 they believe that it's a young girl or not.

19 THE COURT: Well, didn't you --

20 MS. CHOI: Your Honor --

21 THE COURT: -- we have something in --

22 MS. CHOI: Well, the State --

23 THE COURT: -- already.

24 MS. CHOI: Yes --

25 MS. KING: No. Those are e-mails of -- the e-mails

1 that were, were, were introduced were e-mails the defendant is
2 sending himself. These are, these are the images of girls on
3 his e-mails --

4 MS. CHOI: That are inbound.

5 MS. KING: -- that is separate, that is separate from
6 the images of girls located on his laptop.

7 MS. CHOI: People are sending to him, and he's the
8 recipient --

9 MS. KING: And --

10 MS. CHOI: -- he's not sending out --

11 MS. KING: Your Honor --

12 MS. CHOI: -- he's not soliciting in any way, and
13 that's --

14 THE COURT: Is there --

15 MS. CHOI: -- that's the problem, Your Honor, is
16 that --

17 THE COURT: Is there anything to indicate that the
18 defendant communicated, that he sent anything to --

19 MS. CHOI: There is --

20 MS. KING: Yes, Your Honor --

21 MS. CHOI: No.

22 MS. KING: -- I mean, the, well, the --

23 MS. CHOI: There's no outbound.

24 MS. KING: -- I mean, he, he testified that there was
25 conversations happening and that, that she, that the, that the,

1 the -- that Zoe said that she was in communication with
2 man.maryland. That was what the testimony was.

3 MS. CHOI: The -- I thought the testimony was that it
4 was inbound messages coming into the man.maryland@gmail.com.

5 THE COURT: Well, that's my question. Did he send
6 anything --

7 MS. CHOI: No.

8 THE COURT: -- to her?

9 MS. CHOI: He did not.

10 THE COURT: And is there any --

11 MS. CHOI: That was the testimony.

12 THE COURT: -- anything that we can point to in any
13 of the --

14 MS. KING: Well, he said that they were engaged in a
15 conversation. So, I mean --

16 MS. CHOI: But there's no --

17 THE COURT: Who said?

18 MS. CHOI: -- outbound.

19 MS. KING: The witness, Your Honor.

20 MS. CHOI: The detective, but there's --

21 MS. KING: Again, I mean, I think we're kind of
22 straying from -- these are business records. These are images.
23 I don't -- I think that we're trying to prove --

24 MS. CHOI: It's --

25 MS. KING: -- you're putting -- the burden is being

1 placed on the State to prove a fact --

2 THE COURT: Well, but, but the issue --

3 MS. CHOI: It confuses --

4 THE COURT: -- is, is not --

5 MS. CHOI: Here's the issue, Your Honor --

6 THE COURT: -- authenticity. That's -- a business
7 record --

8 MS. KING: Right.

9 MS. CHOI: Your Honor, here's --

10 THE COURT: -- is a way of authenticating.

11 MS. KING: Right. Correct. So these have --

12 THE COURT: Okay?

13 MS. KING: -- been authenticated. So the issue is --

14 THE COURT: They may be authentic, but if there's no
15 showing of any relevance to something specific -- I mean, I
16 still think the State has to show that it's relevant --

17 MS. KING: And, Your --

18 THE COURT: -- my question is --

19 MS. KING: I'm sorry. Yes.

20 THE COURT: -- if we don't have competent evidence as
21 to the age of the females depicted, I don't know that it's
22 relevant.

23 MS. KING: But --

24 MS. CHOI: If, if the -- I'll give, I'll give the
25 State, if the detective picked up the phone to tie up loose

1 ends and, and spoke to this person and, and said are you a
2 minor or how old are you --

3 MS. KING: Your Honor --

4 MS. CHOI: -- he could testify to that conversation
5 and I would submit. However, that did not happen.

6 THE COURT: This detective you're talking --

7 MS. CHOI: Right, did not happen. There's no --

8 THE COURT: I'm going to sustain the objection.

9 MS. CHOI: Thank you.

10 MS. KING: Thank you, Your Honor.

11 (Bench conference concluded.)

12 BY MS. KING:

13 Q And along with the IP addresses, what is your -- can
14 you explain to the jury how an IP address works? So if I --
15 this courthouse has free Wi-Fi. If I log into my e-mail using,
16 what IP address would come up?

17 A You're going to get the IP address associated --

18 Q No. I mean, like, describe, describe how an IP
19 address is triggered.

20 A So once you connect to that Wi-Fi, it's going to have
21 some sort of log that you connected --

22 MS. CHOI: Objection, Your Honor. May we approach?

23 THE COURT: (No audible response.)

24 (Bench conference follows:)

25 MS. CHOI: I don't know if he's qualified to testify

1 to all of that. Like, he didn't --

2 MS. KING: He said he had training in IP addresses.

3 MS. CHOI: Did he? I --

4 MS. KING: Yes.

5 MS. CHOI: -- don't know. Okay.

6 MS. KING: Yes.

7 MS. CHOI: I'm going to take your word for it.

8 MS. KING: Okay.

9 MS. CHOI: Okay.

10 THE COURT: All right. I'll, I'll overrule.

11 (Bench conference concluded.)

12 MS. KING: Sorry?

13 BY MS. KING:

14 Q You, you can explain to the jury about how an IP
15 address works.

16 A So once you connect, there's going to be some sort of
17 log there that advises that you connected to the, to the
18 Internet, or it's kind of similar when you're, you know,
19 getting back to our initial discussion, you know, when we're
20 connecting to our Gmail or whatever, there's going to be a
21 record produced that you connected through a specific IP
22 address.

23 MS. KING: No further questions.

24 THE COURT: Recross.

25 MS. CHOI: Just --

1 RECROSS EXAMINATION

2 BY MS. CHOI:

3 Q So, Detective Snyder, I'm going to try to get this
4 right, and you can correct me. So if I decide at this
5 location, because I'm on the Frederick County Circuit Court's
6 Wi-Fi and I want to upload illegal material, can he be the
7 target of the investigation and be charged if he's on the
8 Frederick County Circuit Wi-Fi --

9 A So from my --

10 Q -- according to your testimony and how you explained
11 how the IP address works?

12 A So from my experience with these investigations,
13 having dealt with similar ones, I'm ultimately going to get
14 back from, for example, let's say Comcast -- this is the,
15 Frederick County has Comcast -- I'm going to get back a whole
16 big spreadsheet that's advising that a certain -- that
17 basically gives columns of cell phones logging on to the Wi-Fi.
18 So I would have to sort through a whole bunch of spreadsheets
19 to determine which, which device connected to the Wi-Fi.

20 Q That's right. So your job is to look through logins
21 of a lot of different numbers, a lot of different information
22 to figure out that I'm the one who uploaded illegal material
23 and not Mr. Mallik, correct? That's your job?

24 A Correct.

25 Q So with regard to, for example, the Yahoo logins,

1 where they had all kinds of different IP addresses, you didn't
2 even tally up maybe seven or eight pages' worth of logins with
3 regard to different IP addresses that is not attributed to
4 Mr. Mallik's home or work, correct?

5 A Correct. We were talking about a specific period:
6 March 3rd.

7 Q Okay. And, quite frankly, you did not remember or
8 recall certain dates and times correctly. You've made clerical
9 errors throughout this entire investigation with the actual
10 dates of the offense. Now, with regard to the IP address
11 testimony, how long is it going to take you to figure out I'm
12 the one who uploaded the illegal material and not Mr. Mallik?

13 A That's done through the course of the investigation.
14 I simply just can't look at a piece of paper and make that
15 determination.

16 Q So you don't have an answer for that?

17 A I mean, it's a whole part of the investigation, about
18 what in terms we find when we do our search warrants, what we
19 find at the residence, any interviews that are conducted. It's
20 just simply not just looking at a piece of paper and looking at
21 logins and being able to say conclusively Mr. Joe Smith.

22 Q So pursuant to the, the man@maryland@gmail.com, were
23 there photographs of men that you've come across?

24 A In that Gmail account?

25 Q Yes.

1 A Correct.

2 Q And were they sort of like teenage boys? They're
3 fully clothed. It looked like selfies, nothing sexual in any
4 way, correct?

5 A Maybe 20s. I mean, I can't -- I mean, there were,
6 there was an older gentleman on there, but yes.

7 Q Okay. So it wasn't all little girls, women; it
8 was -- there were men involved?

9 A Correct.

10 Q Okay. And then they are fully clothed? I'm not
11 talking about anything inappropriate.

12 A Correct.

13 Q Okay. Are you aware that Mr. Mallik has a daughter
14 named Nikita?

15 A I am.

16 Q Okay. And --

17 MS. KING: Your Honor, this is outside the scope of
18 redirect.

19 MS. CHOI: It's not, Your Honor. He has the
20 ability -- well, his job is to figure out who's done it, and
21 I'm trying to figure out how exactly he would do it in terms of
22 figuring out who would upload illegal images.

23 THE COURT: But the question that you were asking --

24 MS. CHOI: It's about --

25 THE COURT: -- isn't that beyond the scope?

1 MS. CHOI: Well, not necessarily, Your Honor, because
2 we're talking about a specific IP address at Mr. Mallik's home,
3 and so the point that I'm trying to make is that there are
4 other individuals --

5 MS. KING: Your Honor, if we could approach so
6 counsel is not testifying before the jury.

7 MS. CHOI: Oh, okay.

8 THE COURT: I'm going to sustain.

9 MS. CHOI: Okay.

10 MS. KING: Thank you, Your Honor.

11 BY MS. CHOI:

12 Q Now, with regard to -- and this is the, the final
13 little bit -- did there come a time where you came across
14 years' worth of Costco receipts pursuant to this investigation?

15 MS. KING: Again, outside the scope of redirect, Your
16 Honor.

17 THE COURT: Years' worth of?

18 MS. CHOI: Costco receipts.

19 MS. KING: It's, I've made -- there's been no mention
20 of --

21 MS. CHOI: Okay. I, I can withdraw that question.
22 It's not really relevant. Court's indulgence.

23 BY MS. CHOI:

24 Q Okay. Detective Snyder, you testified that if
25 somebody, like myself, was on the Wi-Fi at Frederick County

1 Circuit Court and I uploaded the image on my phone, you said
2 that you would be able to find me, correct? I'd be the
3 perpetrator and would be charged and not Mr. Mallik?

4 A What I said is that the ISP, whether it be Comcast or
5 Verizon, would send basically a huge spreadsheet with columns
6 of phone numbers, dates and times, and the IP address; then,
7 hypothetically, if you knew the suspect's telephone number, you
8 could kind of say, hey, you know, this time this telephone
9 number was using the Wi-Fi of the Frederick County courthouse.

10 Q Okay. So if, if I did it on my laptop -- let's say
11 I'm on the Wi-Fi at Frederick County Circuit Court, I'm on my
12 laptop, and I decide to upload illegal material. Would you
13 be able to --

14 MS. KING: Your Honor, I'm going to object. This is
15 speculation at this point. I mean, we -- I've given her some
16 leeway. This is --

17 THE COURT: Well, it's a hypothetical. I'm not sure
18 that we have --

19 MS. KING: He's not an expert.

20 MS. CHOI: Well, the difference is between a laptop
21 and a phone.

22 THE COURT: What?

23 MS. CHOI: The difference between -- the question is
24 the difference between a laptop and a phone: Is this officer,
25 who is trained in IP address identification, able to

1 differentiate who the perpetrator is if I upload it on a phone,
2 which would then be supported by, I guess, Verizon, Sprint,
3 AT&T, or a laptop?

4 THE COURT: All right. That's the --

5 MS. KING: Your Honor, this is --

6 THE COURT: -- that's the question: Is --

7 MS. CHOI: That's --

8 THE COURT: -- he able to distinguish?

9 BY MS. CHOI:

10 Q Are you able to --

11 A Correct. So when we --

12 Q -- by the laptop?

13 A Correct.

14 Q So if that laptop uploads, then you would be able to
15 find the perpetrator, correct?

16 A So, so you can differentiate between a cellular
17 device --

18 Q Sure.

19 A -- or a laptop because, if I send a court order to
20 Comcast, they're going to give a whole, like I described
21 before, they're going to give a whole bunch of telephone
22 numbers that were probably using the Wi-Fi at the Frederick, at
23 the Frederick County courthouse around the same time period of
24 when that court order, when the request was made in that court
25 order.

1 Q Okay. So if somebody had access to a laptop or some
2 other individuals in the family had access to a laptop, it
3 would just be that location; it wouldn't necessarily be --

4 A It would give the IP address.

5 Q The IP address of the laptop that was used to upload
6 the images, correct?

7 A The IP address, no; of the, of the, the router, not
8 the IP address -- not the internal IP address going back and
9 forth between the laptop and the router. It's the IP address
10 coming in from Comcast that's assigned and associated with that
11 box for that router.

12 Q Okay. But your testimony is that there were some
13 pictures of some young men, fully clothed, in that
14 man.maryland@gmail.com, right?

15 A There were.

16 MS. CHOI: Okay. Nothing further, Your Honor.

17 MS. KING: Brief, Your Honor. If I could approach?

18 THE COURT: (No audible response.)

19 MS. KING: I'm showing counsel what's been marked as
20 State's Exhibit 17.

21 FURTHER REDIRECT EXAMINATION

22 BY MS. KING:

23 Q And, Detective Snyder, I'm showing you what's been
24 marked as State's Exhibit 17. Is that the image that you were
25 talking about?

1 A It's one of several images.

2 Q And who is that image from?

3 A So it's from man.maryland@gmail.com.

4 Q And who is it being sent to?

5 A It's being sent to, looks like a, a telephone number
6 of Google Voice.

7 Q And were you familiar -- by reviewing the e-mail
8 addresses, were you familiar with who that phone number was or
9 the age of that individual? Is that part of --

10 MS. KING: If I could --

11 THE WITNESS: Yeah --

12 MS. KING: -- have State's Exhibit, the one that
13 wasn't admitted?

14 THE CLERK: 13.

15 BY MS. KING:

16 Q Is that e-mail address associated with this stack?

17 A Are you advising the e-mail address or the --

18 Q No. Was that, I'm sorry, was that phone -- was that
19 e-mail being sent to the, the individuals that you identified
20 of interest?

21 A This particular phone number is different from the
22 two telephone numbers associated with these two, with this
23 packet of information.

24 Q Okay.

25 MS. KING: If I could have the Court's indulgence?

1 THE COURT: (No audible response.)

2 BY MS. KING:

3 Q I'm sorry. That wasn't the stack. Did you have an
4 opportunity to review that phone number with -- when you were
5 doing your investigation?

6 A The two phone numbers I took emphasis on are the two
7 phone numbers that you showed me on that packet. This I don't
8 know who, whose phone it belongs to.

9 MS. KING: No further questions.

10 THE COURT: Excuse me. Anything further, Ms. Choi?

11 MS. CHOI: No. No.

12 THE COURT: Thank you, sir. You can step down.

13 THE WITNESS: Thank you.

14 THE COURT: Can Detective Snyder be excused, i.e. --

15 MS. KING: Yes.

16 THE COURT: -- anybody plan on recalling him?

17 MS. KING: No, Your Honor.

18 MS. CHOI: Could I place him on call for tomorrow
19 afternoon?

20 THE COURT: Okay. We'll do that.

21 MS. CHOI: And that's it.

22 MS. KING: Yes, the State may need him as rebuttal.
23 That's --

24 THE WITNESS: Thank you.

25 MS. CHOI: Thank you, Your Honor.

1 MS. KING: Is Your Honor inclined to take a brief
2 recess, give the jury a break before we start the next witness?

3 THE COURT: A brief recess? How long will your next
4 witness be?

5 MS. KING: Be pretty lengthy, Your Honor.

6 THE COURT: Oh, I thought you had a relatively short
7 witness.

8 MS. KING: No. They're two --

9 THE COURT: How lengthy?

10 MS. KING: Probably an hour, at most.

11 THE COURT: For direct?

12 MS. KING: For direct.

13 THE COURT: All right. We'll take a recess for 15
14 minutes, and then we are going to plow ahead until we conclude
15 for the day. All right, ladies and gentlemen? We'll resume in
16 15 minutes.

17 (The jury left the courtroom.)

18 THE CLERK: All rise.

19 (Recess)

20 THE CLERK: All rise.

21 THE COURT: Be seated, please. Bring in the jury,
22 please.

23 (The jury entered the courtroom.)

24 THE COURT: All right. Madam State, call your next
25 witness.

1 MS. KING: Thank you, Your Honor. State calls
2 Mr. Steven Gibson.

3 STEVEN GIBSON
4 called as a witness on behalf of the State, having been first
5 duly sworn, was examined and testified as follows:

6 THE WITNESS: Thank you.

7 DIRECT EXAMINATION

8 BY MS. KING:

9 Q Mr. Gibson, can you please state your name for the
10 record? And you can spell, spell your last name for the Court.

11 A Steven Gibson, G-I-B-S-O-N.

12 Q And where do you work?

13 A I work for Homeland Security Investigations at their
14 RAC Frederick or the Law Enforcement Center in Frederick,
15 Maryland.

16 Q What, what is your position there?

17 A I'm a computer forensic analyst.

18 Q How long have you been with the Homeland Security?

19 A Four years paid, one year as a nonpaid intern.

20 Q And what are your duties as a computer forensic
21 analyst at Homeland Security?

22 A I assist agents on search warrants, preview devices.
23 I then image devices, extract data, analyze data, mark data,
24 create reports, also do mobile forensics on phones, other
25 mobile devices, try to crack passwords or get passwords, try to

1 open devices, and provide assistance where needed.

2 Q And you stated you've been doing that for the last
3 four years. Can you describe to the jury what you did for the
4 one year as an unpaid employee of Homeland Security?

5 A I basically did the same thing that I'm doing now,
6 but I was in what's called the HERO Corps, Human Exploitation
7 Rescue Operative. It was a program designed through Special
8 Operations Command, the National Association to Protect
9 Children, and Homeland Security to get wounded and disabled
10 veterans back into the fight except the fight this time is
11 against child exploitation.

12 Q How long did you do that for?

13 A One year.

14 Q And what did you do before you were a part of the
15 HERO Corporation -- Corps?

16 A I was an independent contractor to the Wounded
17 Warrior Project, teaching wounded soldiers and transitioning
18 veterans in computer maintenance repair, networking, and
19 security and introductions to computers.

20 Q And can you describe to the jury -- you touched a
21 little bit about, on it -- but can you describe a little bit
22 more thoroughly the specialized training that you have received
23 regarding computer digital forensics?

24 A Yes. I've attended and went through a computer
25 maintenance and repair CompTIA on how to build and fix

1 computers, networks. I went through the Basic Evidence
2 Recovery Training, also the advanced recovery training. I've
3 been through Project Victim Identification, Social Media
4 Exploitation through Department of Justice, Cellebrite
5 Forensics 1 and 2.

6 I went through, because I use EnCase software as one
7 of my products, so I've been through EnCase Forensics 1 and 2.
8 I've also gone through Forensic Toolkit, FTK training, because
9 I use their product; so I've gone through that training as
10 well. I've gone through Social Media. I said that one.
11 There's other ones in there, but there's too many.

12 Q And I'm going to -- and can you tell the jury how
13 many cases you perform forensic examination over?

14 A Roughly 60 to 70.

15 Q And how many devices have you forensically examined?

16 A Hundreds, because each case typically has multiple
17 devices.

18 Q What types of cases have you performed forensic
19 examinations on?

20 A Ninety-nine percent of mine are child exploitation
21 due to my experience in the HERO Corps. We specialize in child
22 exploitation cases, but I have done, currently have one
23 homicide as well as burglary and have done some sexual
24 assaults.

25 Q And have you ever been qualified as an expert with

1 respect to computer forensics? Can you tell the ladies and
2 gentlemen of the jury which courts and the nature of each case?

3 A Two within the state -- one was, I think, Wayne
4 Warren, and that was sexual abuse of a minor, and the other one
5 was possession/distribution of child pornography; also one
6 federal case, also with possession/distribution and, I think,
7 also, distributing it, in the federal court system.

8 MS. KING: And, Your Honor, at this time the State
9 would like to move Mr. Gibson as a qualified expert in the
10 field of forensic examination analysis and computer and digital
11 storage.

12 MS. CHOI: No objection.

13 THE COURT: All right. We will accept the witness as
14 an expert as tendered.

15 MS. KING: And if I could approach Madam Clerk?

16 THE COURT: (No audible response.)

17 MS. KING: 17?

18 THE CLERK: 18.

19 MS. KING: 18. I never keep track. Thank you.

20 (The document referred to was
21 marked as State's Exhibit
22 No. 18 for identification.)

23 BY MS. KING:

24 Q I'm showing you what's been marked as State's Exhibit
25 18. Do you recognize that?

1 A I do now. Okay. Yes.

2 Q And what is it?

3 A This is my curriculum vitae.

4 Q And is that an accurate representation of the
5 qualifications and trainings that you've just told the Court?

6 A It is.

7 MS. KING: State likes to move into evidence State's
8 Exhibit 18.

9 MS. CHOI: No objection, Your Honor.

10 MS. KING: If I could publish that to the --

11 THE COURT: State's 18 is admitted.

12 (The document marked for
13 identification as State's
14 Exhibit No. 18 was received
15 in evidence.)

16 BY MS. KING:

17 Q Mr. Gibson, can you, generally speaking, can you
18 describe the steps that are involved in a forensic exam of a
19 computer?

20 A Yes. Typically, we get the device, whether it be a
21 computer or hard drive or USB or whatever. I will then look
22 at, give it a good looking over. From that point we then
23 annotate the make, model, serial number of it, take pictures if
24 we think pictures are going to be needed, and then once that's
25 done, I will, if it's a computer, I will then remove the hard

1 drive out of the device, same thing, look at the hard drive,
2 document the make, model, serial number, the size of it,
3 whether it's 320 gigabytes, one terabyte, whatever. We
4 document that, and then from there I then have -- what I use is
5 an imaging program. It's called Forensic Toolkit Imager. I
6 will hook that up to my computer, and I will create what's an
7 E01, but I will run that through what's known as a write
8 blocker.

9 The write blocker -- any time you turn on an
10 electronic device, electricity flowing through it, as you know,
11 creates power, and therefore things start happening and
12 changing, registries change. In order to preserve the
13 evidence, we run it through a write blocker, whether software
14 or hardware, which prevents any writing to that, to that drive.
15 So therefore there are absolutely no changes to it, but also,
16 to verify that, at the beginning of the process, it hashes it,
17 it hashes the drive, and then once again, at the end it will
18 run a verification hash. And many of you are probably going,
19 well, what's a hash? The hash is a numeric algorithmic formula
20 that's created, and anything pretty much within the digital
21 world can be hashed -- documents, photo, doesn't matter what.

22 So I then image this drive and create an E01. Once
23 that is done and the verification hash matches, I then have
24 software tools, such as EnCase Forensics, Internet Evidence
25 Finder, which is what I used in this case. I then will take

1 that image -- because I'm not using his actual hard drive,
2 because that would be messing with evidence, so we don't do
3 that -- we create a pristine image, and then I hook that up to
4 my forensic machine, and I process it. Now, what that means by
5 processing is that it creates, it hashes all those algorithms,
6 every photo and everything else.

7 So then I can look through, and it breaks it down to
8 the file structure. So I can look at documents. I can sort.
9 I can look at all the images. I can look at all the videos. I
10 can look at all his documents. I can look at his registry. I
11 can look at everything pretty much. And then also what I do is
12 I will take -- in this case a Gmail files or images were
13 downloaded. A copy of those were given to me. I put them in.
14 I create --

15 Q Well, before you get into the specifics of this case,
16 just generally. So is that what will conclude your general
17 process?

18 A Yes. I will then go through, look for stuff,
19 bookmark it or annotate, you know, bookmark it, and then once
20 I'm done, I create a report, give it to the case agent, and
21 then things -- whatever happens, happens.

22 Q Okay. So I'm going to direct your attention to this
23 case, in particular. Did there come a time when you became
24 involved in the case against -- regarding an investigation of
25 an Abe Mallik?

1 A Yes.

2 Q And what was your role? How did your role begin in
3 that investigation?

4 A I was there for the search warrant, and I was the
5 computer forensic analyst on scene.

6 Q So at the search warrant, was that here in Frederick
7 County, Maryland?

8 A Yes.

9 Q And was that the residence of Mr. Mallik?

10 A Yes.

11 Q Do you recognize him in court today?

12 A I do.

13 Q Can you identify him by an article of clothing?

14 A That's him.

15 MS. KING: If the record could reflect that the
16 witness has identified the defendant?

17 THE COURT: The record will so reflect.

18 BY MS. KING:

19 Q What was -- can you describe what occurred at the
20 search warrant?

21 A Well, because I'm not an agent, I don't initially go
22 in until everything is safe, secured, and then somebody calls
23 me in, and I go in and I will set up at a -- typically find
24 somewhere to set up my computer, and then the individuals will
25 bring me media that's found -- USBs, laptops, DVDs, CDs, and

1 those kinds of things.

2 Q And what do you mean by -- so they would bring in
3 these items, and what would you do?

4 A As I said, with my write blocker -- I have a write
5 blocker that I use for all of these things -- I will preview
6 them. In other words, if it's a CD with family photos or
7 whatever, I will bring it up and I will quickly look at all
8 those photos. If I don't see any kind of images of interest,
9 then I give it back to whatever detective brought it to me and
10 he takes it and puts it back, whatever room he got it from.

11 Q And did you personally clear devices?

12 A Yes.

13 Q Which ones?

14 A Some USBs that were brought to me, his daughter's
15 computer, because she had to go to school and a lot of times I
16 don't like to take children's stuff if they have to use it in
17 school, so I cleared that, and that was pretty much it, CDs,
18 USBs, a lot of things that potentially don't have any
19 evidentiary value.

20 Q And did there come a time when the rest of the
21 property was brought back to, to your lab, for your Home
22 Security, Homeland Security lab?

23 A I, yes, I eventually did sign for it, and it was
24 stored in my lab at that point in time.

25 Q And how did you come into possession of those items?

1 A I signed for them from the case agent.

2 Q Out of the items that you were given, were you able
3 to examine all of those items?

4 A No.

5 Q Why not?

6 A Because the BlackBerry, it was a government-owned
7 BlackBerry which had some weird things that you had to do and
8 everything and it just never worked out, and then an Apple
9 iPad, because I didn't, we, I didn't have the passwords.

10 Q And can you describe to the jury the attempts that
11 you made, or what did you do to try to -- the efforts that
12 you've made to try to get into that iPad?

13 A Well, I was given some passwords initially. None of
14 those worked. We tried that. I didn't want to try too many
15 times because with Apple products, after like 10 attempts,
16 you're locked out, you're not getting anything. The only thing
17 you can do then is wipe it. So we didn't want to do that, but
18 I tried -- I was given, I think, two or three passwords, which
19 I tried, that were given to me, and none of those worked.

20 So then I recommended sending it to Baltimore, to
21 the, to our, to the customs house, the Homeland Security
22 customs house. There's guys there with a lot more experience
23 than what I have, and they couldn't get into it. I think they
24 tried a couple times, and then it came back, and I do believe
25 it went to the FBI at one point.

1 Q Thank you. Out of the items that you did review,
2 which items were you able to identify contained child
3 pornography?

4 A Only one device, the Acer laptop, or PC3.

5 Q And upon reviewing that Acer laptop, what did you --
6 can you describe the physical condition of the laptop?

7 A It was a laptop, didn't seem broken. I would have to
8 see it to -- I'm sure it's in the same state as when I saw it
9 last.

10 Q And did you maintain custody of that laptop, and
11 where did you maintain custody?

12 A In my, in my lab. I'm the only person with a key,
13 and to get into the building in general, you have to have a key
14 card, like these, and swipe, and then to get into that, or the
15 next suite, you'd have another one of these to get into that,
16 and then I'm the only person with the key. So that's where it
17 was stored.

18 Q And can you describe to the ladies and gentlemen of
19 the jury how you began your examination of that laptop?

20 A I was given a disc, as I said before, with those
21 images from the, I guess, the Gmail download. From that I
22 created a hash set -- and, once again, the hash, that numeric
23 algorithm -- and created a hash set which I was then able to
24 run against all of the evidence, all those evidence files that
25 I had created. Remember the pristine evidence files? It's a

1 working copy. So I was able to run that against all of those,
2 and none of those, none of them hit. So --

3 Q And actually, beginning first with your examination,
4 were you able to determine the operating system of the laptop?

5 A Yes. It was Windows 10.

6 Q And do you recall when it was installed?

7 A March 22nd.

8 Q And did you know who the registered user was?

9 A Deputy God.

10 Q Do you recall how many -- upon reviewing the system
11 information, do you create a screenshot of -- that captured
12 that?

13 A I did.

14 MS. KING: If I may approach, Your Honor?

15 THE COURT: (No audible response.)

16 BY MS. KING:

17 Q I'm showing you what's been marked as State's Exhibit
18 19. Do you recognize that?

19 A Yes.

20 Q And what is it?

21 A This is a screenshot from my EnCase 7 forensic
22 software.

23 Q And is that a fair and accurate representation of
24 the, of the screenshot that you, that you took?

25 A Yes, it is.

1 MS. KING: State would like to move into evidence
2 State's Exhibit 19.

3 MS. CHOI: Your Honor, did the witness testify as to
4 whether that was the Acer or any other device?

5 MS. KING: Yes. He said it was the Acer.

6 MS. CHOI: Oh, okay. All right. No objection then.
7 No objection, Your Honor. I'm sorry.

8 THE COURT: All right. State's 19 is admitted.

9 (The document marked for
10 identification as State's
11 Exhibit No. 19 was received
12 in evidence.)

13 MS. KING: If I could publish to the jury?

14 THE COURT: (No audible response.)

15 MS. KING: It's kind of difficult to see up there, so
16 I'm going to pass this around.

17 BY MS. KING:

18 Q So how many -- how many accounts were on this system?

19 A There were two.

20 Q And what were they?

21 A Mallik and Deputy God.

22 Q How many logins did Mallik have?

23 A One.

24 Q How many logins did Deputy God have?

25 A A hundred and ten.

1 Q You stated that it was first created on March 22nd.
2 What was the last reported log-on?

3 A For Deputy God or for Mallik?

4 Q For Deputy God?

5 A I want to say April 20, either --

6 Q If you don't recall, you can, I can leave that -- I
7 don't know if you can see that.

8 A No, I don't think I can see that. I can't see that.
9 May I see that piece of paper again? April 21st at 12:41 a.m.

10 Q April 21st, is that -- this is the morning of the
11 search warrant?

12 A Yes.

13 Q You stated that there were a hundred -- you said over
14 a hundred logins for Deputy God?

15 A Right, 110.

16 Q And what was that time frame? How many -- what does
17 that cover?

18 A Well, the operating system was installed on the 22nd.
19 So what is that? Thirty days or less than 30 or 31 days?

20 Q Were these logins password-protected?

21 A Yes, they were.

22 Q What were the passwords?

23 A June#1992, and Mallik and Deputy God both had the
24 same log-on, same password.

25 Q And why is that noteworthy as a forensic examiner?

1 A Typically, it indicates that the same person has both
2 accounts.

3 Q Was there any other device that had Deputy God?

4 A His work, his work computer had a shared printer
5 called Deputy God Printer.

6 Q Did you find any specific programs of interest during
7 your forensic exam?

8 A On which device?

9 Q On the Acer laptop?

10 A There was Hide My Ass VPN Pro.

11 Q Okay. And when was -- do you recall when that was
12 installed on the laptop?

13 A The 23rd of March.

14 Q And can you describe to the jury, what is a VPN?

15 A A VPN is a virtual private network. To put it in
16 regular -- let's see. It's like you and I are talking right
17 now; you can see me and everything else, and the Judge and
18 everyone else can see into our conversation. A virtual private
19 network creates a tunnel to where only you and I can converse
20 back and forth and no one else can see in or hack in or
21 anything like that to what we're doing. It is a point to point
22 from you to me, a lot of times with encryption, is what it's
23 set up for.

24 That's what a virtual private network essentially is.
25 There's various types, but that's what it is, is it's a tunnel

1 which allows us to -- for me to go anywhere I want, basically,
2 privately and securely.

3 Q And based on your experience as a forensic examiner
4 primarily in the field of child pornography, is it common that
5 you see these types of programs?

6 A No.

7 Q And was that program installed in any other device?

8 A I can't answer that because I was not able to analyze
9 the Apple iPad.

10 Q So let's go into your direct, your results, or your
11 actual examination, the content. What do you search for first?

12 A And keep in mind, I'm using my forensic software
13 program which allows me to sort by anything. I can sort by
14 date, file types, and everything else, which I normally will
15 sort by file extensions. As many of you probably know, when
16 you take pictures and stuff, it stores them as JPEGs or, you go
17 to movies, it'll be MPG or AVI and this kind of stuff. I do
18 the same thing. I will start looking for video files. So I'll
19 sort by AVIs, and then I'll go through and look, and a lot of
20 times the title in itself will tell me a lot about what's in
21 there. You know, if it's child exploitation, it's going to
22 have some name we don't want to discuss. Those that don't have
23 names to it I will click on and use my media player and I view
24 them.

25 So I will sort by that; then I'll go FLV. I will

1 then do MPGs, and then I will sort by JPEGs and look at all of
2 these things. Sometimes I even look at documents, but in the
3 precursory I go through those very quickly because that tells
4 me a lot about the individual and what they're looking at.
5 Sometimes we find documents that are related to child
6 exploitation. So --

7 Q And what did you locate reviewing this laptop?

8 A I found child erotica, and then I found suspected CP
9 images.

10 Q Can you describe what child erotica is?

11 A Child erotica is -- what you got to keep in mind is
12 that the federal definition versus the state's are different.
13 For the federal side, it's lewd and lascivious display of
14 genitals. So if there's a child spreading her legs nude, to us
15 that is child pornography. Within the State of Maryland, that
16 is child erotica. The State of Maryland is only if the child
17 is touching itself or engaged in a sexual act. So sometimes
18 within the state, for the federal side, it's child pornography;
19 for the state, it's child erotica. But I find images of
20 children in various stages of undress, modeling in extreme
21 skimpy clothing. Also, there's lots of what's known series.

22 Q What is a series?

23 A Series are out there, is that throughout the years,
24 as children have been exploited, some children have been
25 exploited more than others and they have been given names, or

1 whoever their abuser is has given them a name. In some
2 instances, we see, like, Tera (phonetic sp.) series, Vicky
3 series, and these children have gone on to suffer horrible
4 abuse over the years. There's also what's called the Little
5 Angel series out of Russia, and that starts out in children,
6 normally prepubescent, wearing these big costumes, like Mardi
7 Gras stuff. They all have these themes, and as it goes along,
8 they become in stages more and more of undress until then it
9 looks like a Penthouse spread or a Playboy spread or whatever
10 magazine you want to say. I see a lot of that. Now, that in
11 itself is not illegal, and as I said before, the federal versus
12 the state has different guidelines.

13 Q Did you find some series located in the defendant's
14 laptop?

15 A Yes. I found various series' images on there of
16 erotica or --

17 Q And you -- how many, would you say, images of just
18 children in various stages of play? How many images did you
19 find?

20 A Throughout the various folders, more than 200.

21 Q Let's talk about -- so you identified just images of
22 exploitation, and you stated you created a folder of interest.
23 Describe why you create a folder of interest.

24 A Well, I have two different folders. Typically, I'll
25 have suspected CP, which is that which children engage in

1 actual sexual acts, prepubescent children usually, and then the
2 images of interest are ones that a lot of times will lead us to
3 show the mindset of the individual, that it's not just a rare
4 occurrence, that this individual has gone down a path of
5 darkness per se that -- because by looking at the whole of it,
6 it's not a mistake. So that's why I call them images of
7 interest, because they don't meet the actual definition of
8 child pornography, but --

9 MS. KING: If I may approach the clerk, Your Honor?

10 THE COURT: (No audible response.)

11 MS. KING: Your Honor, if I may approach the witness?

12 THE COURT: (No audible response.)

13 BY MS. KING:

14 Q I'm showing you what's been marked as State's Exhibit
15 20. Do you recognize that?

16 A I do.

17 Q Is that your preliminarily -- your preliminary folder
18 of interest?

19 A Yes.

20 Q Is that a fair and accurate representation of the
21 images that you located on the defendant's laptop?

22 A Two, five, eight, 11, 12, 13, 14 -- yes, this is the
23 16 images.

24 MS. KING: Your Honor, the State would move State's
25 Exhibit 20 into evidence.

1 MS. CHOI: Your Honor, obviously, for the record, the
2 Defense would object, citing the other arguments with regard to
3 5-403 and then Burris v. State.

4 THE COURT: I'll overrule.

5 MS. KING: Thank you, Your Honor. If I could publish
6 this to the --

7 THE COURT: State's Exhibit 20 is admitted.

8 (The item marked for
9 identification as State's
10 Exhibit No. 20 was received
11 in evidence.)

12 BY MS. KING:

13 Q And you stated, you just -- you also testified as to
14 these series and images of clothed children. Did you compile a
15 folder of interest regarding those images?

16 A Yes.

17 MS. KING: If I could approach the clerk, Your Honor?

18 THE COURT: (No audible response.)

19 MS. KING: Showing defense counsel State's Exhibit
20 21.

21 BY MS. KING:

22 Q I'm showing you State's Exhibit 21, and this has been
23 redacted. Is that a sampling of the other images that you were
24 talking about?

25 A Yes, it is.

1 Q Is that a fair and accurate representation of what
2 you reviewed off of the defendant's laptop?

3 A It is.

4 MS. KING: State moves into evidence State's Exhibit
5 21.

6 MS. CHOI: Again, Your Honor, for the record, the
7 Defense would object based on all the arguments listed before.

8 THE COURT: Overruled. State's 21 is admitted.

9 (The photographs marked for
10 identification as State's
11 Exhibit No. 21 were received
12 in evidence.)

13 MS. KING: Thank you, Your Honor. If I could publish
14 that to the jury?

15 THE COURT: (No audible response.)

16 BY MS. KING:

17 Q Mr. Gibson, let's talk about where you located these.
18 Can you describe to the jury the folder structure?

19 A The folder structure was Users\Deputy
20 God\Downloads\Uninstall -- now, keep in mind is that, as we're
21 going down, there's folders within folders --

22 Q Did you create a screenshot of --

23 A I did.

24 Q -- of the folder structure?

25 A I did.

1 MS. KING: If I could approach?

2 THE COURT: (No audible response.)

3 THE WITNESS: And I'd much rather look at than
4 remember it.

5 BY MS. KING:

6 Q I'm showing you what's been marked as State's Exhibit
7 22. Do you recognize that?

8 A Yes, I do.

9 Q And what is it?

10 A It's the file path down to what I was just trying to
11 explain. This is the, the Users, was then Deputy God, and then
12 from there they went to Downloads\Uninstall, and then from the
13 Uninstall there was a deleted folder or a Delete, and then from
14 there, there was numerous subfolders in that.

15 Q Are these folders manually or automatically created?

16 A It varies. Any of you that's been on a computer, you
17 know when you download something off the Internet, it puts it
18 into your Downloads folder and then you got to try to go find
19 it to bring it back up. It's the same thing here. With
20 Windows 10, Windows 10 creates the Download folder, but pretty
21 much anything inside of that is manually created. So the
22 Install/Uninstall folder and anything below those are manually
23 created by the user. So, as you drill down, all of those
24 folders would have been created by that user.

25 MS. KING: And, Your Honor, State moves into evidence

1 State's Exhibit 21.

2 THE COURT: 21?

3 MS. KING: Is that --

4 MS. CHOI: 22.

5 MS. KING: 22.

6 THE WITNESS: 22.

7 THE CLERK: 22.

8 MS. KING: 22, Your Honor.

9 THE COURT: 22. State's 22 is admitted.

10 (The document marked for
11 identification as State's
12 Exhibit No. 22 was received
13 in evidence.)

14 MS. KING: If I could publish to the jury?

15 THE COURT: (No audible response.)

16 BY MS. KING:

17 Q So, just so we're clear, so Users and then it's under
18 Deputy God?

19 A Yes.

20 Q And under --

21 A Downloads.

22 Q -- Downloads, and then you stated everything under
23 Uninstall, including Uninstall, is that manually or --

24 A That's manually.

25 Q All manually created?

1 A Yes.

2 Q And what were the contents of these folders?

3 A Well, the folder names themselves, there was Anal
4 Daughter, Cheerleader, High Heels, and as you're looking
5 through, you can see some of that folder structure yourself as
6 you're looking at these. There was child erotica, the images
7 which are going now, throughout many of these folders, as well
8 as the suspected child pornography in these folders.

9 The ones -- now, back to manually versus
10 system-created, there are system-created folders here to where
11 if you do not give the folder a name, the system will call it
12 New Folder and give it a number, which many of you, if you've
13 saved stuff on your computer without naming it, you just see it
14 says, like, New Folder 1, New Folder 2, New Folder 3, and so
15 on. If you don't name it, the system will generate the name in
16 that order for it, which some of these were down in --

17 Q When --

18 A -- those types of folders.

19 Q When was the Uninstall folder created?

20 A I believe March 23rd.

21 MS. KING: If I may approach Madam Clerk?

22 THE COURT: (No audible response.)

23 BY MS. KING:

24 Q Mr. Gibson, I'm showing you what's been marked as
25 State's Exhibit 15. Do you recognize that?

1 A Yes.

2 Q And what are those?

3 A These are suspected CP.

4 Q And are those the images that you located on the Acer
5 laptop?

6 A It is.

7 Q And where were those files located?

8 A They were in the Users\Deputy
9 God\Downloads\Uninstall. This particular picture was in the
10 Tina Erin (phonetic sp.) folder, and then these two were in
11 that same path all the way down, Users\Deputy
12 God\Downloads\Uninstall\Delete, except these two were in the
13 New Folder 4. Remember I was telling you about the system? It
14 created folders. So these were saved but not named in a
15 folder, so the system named it New Folder 4.

16 Q Mr. Gibson, can you explain to the jury, why is it
17 relevant in your examination when you find images of children,
18 even if they're not unclothed?

19 A Well, it kind of shows, as I said before, a pattern.
20 Basically, it shows a pattern of where they're going or where
21 they're at, and so --

22 Q And, and all of these images, the 200 that you
23 described, how do you know, including the child pornography
24 images, how do you know that these images have been viewed?
25 How are you able to determine that?

1 A The -- there's what we call link files. There's link
2 files. There's also, you can go into the registry and look at
3 the most recently used files. It's called MRU. So you can go
4 in and look and see what this person, the last folders, and see
5 what they were looking. You can see the last pictures they
6 were looking at, and this user was in those folders, looking at
7 those, those items, not necessarily the child exploitation
8 stuff, but you can tell they were looking in, within those
9 folders.

10 Q And what is a link file?

11 A A link file is kind of like a shortcut. It's like
12 you go to a website and then you close it down. Well, your
13 computer stores that path, and it's basically to make your
14 computer run faster. So it caches that information, and it's
15 basically a shortcut to get to it quicker, and within that I
16 find a lot of link files going to these folders.

17 Q And you described a link file and MRU. Is there any
18 other way that you were able to determine, or I believe you
19 stated -- can you elaborate more on the, on the cache, cache
20 files?

21 A Oh, yes. Cache files are -- like, if you're looking
22 at family photos and close it out, your computer will create a
23 thumbnail image of that, and sometimes you may see a thumb
24 cache based on your operating system, or you may see thumbs.db
25 256, 1024, and that's the size for the pixels of that picture

1 it's storing it in.

2 So if you have a real big picture of your family and
3 you save it on your computer -- let's say you have a CD and you
4 put it -- and you take that CD out. Well, when you put that CD
5 back or you downloaded stuff from the Internet, it stores it;
6 so that way, when you click on it, it lets you sort it. Rather
7 than seeing that file name and not knowing which picture is
8 Aunt Martha, you can look down through it and go, oh, it's that
9 one right there. So it stores a little mini-image. Now, when
10 you delete it, it's not always gone --

11 Q And --

12 A -- it will continue to save that thumbnail.

13 Q And was some of that suspected child pornography in
14 those cache files?

15 A Yes.

16 Q Based on your review of the link files, the MRUs,
17 these thumb cache files, what were you able to conclude?

18 A That these files had been viewed on this computer
19 pretty much by that user.

20 Q Were any of these subfolders under Deputy God located
21 on any other device?

22 MS. KING: Well, actually, Your Honor, if I, I could
23 approach the clerk?

24 THE COURT: (No audible response.)

25 BY MS. KING:

1 Q I'm showing you what's been marked as State's Exhibit
2 23. Do you recognize that?

3 A Yes, I do.

4 Q And what is it?

5 A It's the most recent multimedia file browser history.

6 Q And did you create a screenshot of that?

7 A Yes. This is it.

8 Q And is that a fair and accurate representation of
9 what you viewed off the defendant's laptop that captured some
10 of the most recently viewed material?

11 A Yes.

12 MS. KING: State moves into evidence State's Exhibit
13 23.

14 MS. CHOI: I have no objection, Your Honor.

15 THE COURT: 23 --

16 THE CLERK: Wait.

17 THE COURT: -- is admitted.

18 (The document marked for
19 identification as State's
20 Exhibit No. 23 was received
21 in evidence.)

22 THE CLERK: 24.

23 THE CLERK: No, it's 23.

24 MS. KING: Is that 24?

25 THE CLERK: 23? Oh, 23.

1 MS. KING: Is it 23?

2 THE CLERK: 23.

3 THE WITNESS: This says 23.

4 MS. KING: 23.

5 BY MS. KING:

6 Q Were any of the Deputy God subfolders found in any
7 other device at the defendant's residence?

8 A I'm sorry. Could you repeat the question?

9 Q Was any other of the Deputy God subfolders, was it
10 located, any of those folders located on any other device?

11 A Yes. Actually, one of the folders -- there's a
12 folder called FB that was on his work computer in the
13 Downloads, and it contained images, not of any kind of child
14 erotica or anything, but just normal -- images of people. I'm
15 assuming it may stand for Facebook. But I also found that on
16 his Acer laptop, also in the Downloads\Uninstall and I'd have
17 to look at my report to see where it was at, but I found images
18 that were the same. So I looked at the hash values of those
19 images, and there was like nine photos of the same guy on both
20 of them, which meant that whoever the Deputy God user was, was
21 also able to get on Mr. Mallik's work computer. So those
22 folders are there.

23 Q And when were they put on the, on the work computer,
24 the Dell computer? Do you recall?

25 A I do not. I know it was a day after. Like, it was

1 on his work computer, and the next day it was on the Acer
2 laptop.

3 Q If I could --

4 A I want to say April 5th and --

5 Q If I could --

6 A -- 6th it was on his --

7 Q Would it refresh your recollection to review your
8 report? Would it refresh your recollection --

9 A Yes.

10 Q -- if you reviewed the report?

11 MS. KING: And if I could approach Madam Clerk? May
12 I approach Madam Clerk?

13 THE COURT: (No audible response.)

14 THE WITNESS: So, yes, the, the images were put on
15 the Dell on the 6th of April and, on the Acer, on the 7th of
16 April.

17 BY MS. KING:

18 Q And did you create a screenshot of your analysis of
19 these images?

20 A I did.

21 Q I'm showing you what's been marked as State's Exhibit
22 24. Can you tell the jury what that is?

23 A Yes. These are -- on PC2 this is the FB folder,
24 which you'll see, and then these were the pictures on PC3, the
25 Acer, in the FB folder, and as I was going through the various

1 folders, I noticed that certain images were the same --

2 MS. CHOI: May we approach?

3 THE WITNESS: -- so I compared. I pulled those
4 out --

5 MS. CHOI: Sorry. May we approach? May we approach?

6 THE COURT: Yes.

7 (Bench conference follows:)

8 MS. CHOI: Your Honor, Juror No. 2 is crying. Juror
9 No. 2 is crying, and she left and missed some of the testimony.
10 Could we inquire if she's okay to continue to serve? I don't
11 know what's going on, but she's just sitting there crying. Did
12 you see her?

13 MS. KING: No, I didn't see her.

14 MS. CHOI: Okay.

15 (Bench conference concluded.)

16 THE COURT: Juror No. 2, would you come up, please?

17 JUROR NO. 2: Who me?

18 THE COURT: Is that who you're talking about?

19 MS. CHOI: (No audible response.)

20 UNIDENTIFIED SPEAKER: Yeah, he wants you to go over
21 there.

22 THE COURT: Come up to the bench, please.

23 (Bench conference follows:)

24 THE COURT: Are you okay?

25 JUROR NO. 2: Yes. I just runny nose. I just

1 started -- I have the flu.

2 MS. KING: Oh, you have the flu? Okay.

3 MS. CHOI: Okay. I thought you were crying.

4 JUROR NO. 2: Yes, I'm okay.

5 MS. CHOI: Okay.

6 THE COURT: Okay. Good.

7 JUROR NO. 2: Thank you very much --

8 MS. KING: Thank you.

9 JUROR NO. 2: -- for asking. Thank you.

10 MS. KING: Thank you.

11 MS. CHOI: Okay.

12 (Bench conference concluded.)

13 MS. CHOI: My apologies.

14 MS. KING: State moves State's Exhibit 24 into
15 evidence.

16 THE WITNESS: Do I continue?

17 BY MS. KING:

18 Q No.

19 A Okay.

20 MS. CHOI: No objection, Your Honor.

21 (The document marked for
22 identification as State's
23 Exhibit No. 24 was received
24 in evidence.)

25 BY MS. KING:

1 Q And why is that of -- why is that of evidentiary
2 value for your forensic examination when you find, typically,
3 folders that are on different devices?

4 A It means the same person had the ability to access
5 all the machines, or those machines, and move information back
6 and forth.

7 Q And there's nothing illicit or illegal about these
8 images?

9 A No. It just demonstrates the Deputy God user could
10 access his work computer.

11 Q And how would -- you stated that you did hash values
12 -- how would someone be able to transfer this, this, this,
13 this, these images?

14 A They could do it by Internet. They could do it by
15 putting it on another thumb drive or CD or anything, and they
16 could move them over.

17 Q And did there come a time when Detective Snyder gave
18 you other images to review, to review?

19 A Yes. He, he'd given me, as I said before, the, the
20 Gmail account pictures, and I hash those, but one of my other
21 duties is, what I do is the due diligence to go through and
22 look at stuff, and I was able to determine that there was a
23 female in the Gmail pictures that was also in the Cheerleader
24 folder on his, on the Acer. It was not the same image, but it
25 was the same girl.

1 MS. KING: If I may approach Madam Clerk?

2 THE COURT: (No audible response.)

3 MS. KING: Showing defense counsel what's been marked
4 as 25.

5 BY MS. KING:

6 Q I'm showing you what's been marked as Exhibit 25. Do
7 you recognize those images?

8 A Yes.

9 Q And what are they?

10 A They are the images of the female that was found in
11 the Cheerleader folder versus those that were in the
12 man.maryland@gmail.com.

13 Q And why is that important during your forensic
14 examination?

15 A Because it shows the same user, Deputy God, was also
16 able to get into the Gmail account, and so we're looking at the
17 same girl in the folder structure, so -- also within the Gmail,
18 and --

19 MS. KING: State would like to move into evidence
20 State's Exhibit 25.

21 MS. CHOI: Objection, Your Honor. Objection.

22 THE COURT: No objection?

23 MS. CHOI: No. Objection, Your Honor. Defense
24 objects.

25 THE COURT: Wish to be heard?

1 MS. CHOI: Based on the arguments that we've
2 previously provided, Your Honor.

3 THE COURT: All right. Overruled. State's Exhibit
4 25 is admitted.

5 (The photographs marked for
6 identification as State's
7 Exhibit No. 25 were received
8 in evidence.)

9 MS. KING: If I could publish to the jury?

10 THE COURT: (No audible response.)

11 BY MS. KING:

12 Q Now, at the conclusion of your forensic examination,
13 did you conduct a -- what did you conduct on the, on the, on
14 the hard drive?

15 A The last thing I did was conducted a malware scan. I
16 ran Malwarebytes as well as Microsoft Security Essentials
17 against the drives because, remember, when I make the evidence
18 file, the evidence drive, it's in the same exact condition as
19 when I pulled it out. So I mount that and then I run it. So I
20 mount it as a normal disc, so it's almost like his machine.
21 I've now put it into my computer. I run the software, the
22 antivirus software against it, and that's what I did.

23 Q And you stated devices. Which devices were those?

24 A PC1 --

25 Q Can you tell the jury what that is, PC1?

1 A Oh.

2 Q And you can refer to your --

3 A I'll refer to my report. PC3 was the Acer. PC1 --
4 PC2 was the Dell, and hang on a second. Okay. So, so --

5 Q And the -- so those three devices, three separate
6 laptops, you scanned all three of those?

7 A Yes.

8 Q And what -- can you describe to the ladies and
9 gentlemen of the jury, what does Malwarebytes and Security
10 Essentials do?

11 A They're anti- -- well, they're anti-malware, or
12 they're malware. They run for viruses, adware, any kind of
13 malicious -- for the most part, but none of them are 100
14 percent, I will tell you that -- they run for any unwanted
15 program. So they'll run for viruses, Trojans, rootkits.
16 There's a whole list out there of things that they will run
17 for. Some are better than others. Some people say
18 Malwarebytes is probably one of the best. It runs for a lot of
19 adware and also for rootkits and stuff like that.

20 Q Can you describe what malware is for the ladies and
21 gentlemen of the jury?

22 A Well, there's various things. As you know, you've
23 been reading and hearing in the news about ransomware. That's
24 some of it. That's viruses. Viruses also can replicate and
25 will lock your computer up.

1 Q Can malware be not harmful?

2 A Correct. Yes. It can be annoying. If you've ever
3 downloaded a program -- let me think of one here. Even your
4 browser, if you want to -- if Bing keeps trying to download a
5 browser -- they're notorious for that -- and you start clicking
6 Accept and you don't pay attention, some of those little check
7 boxes there, it says you hereby agree to allow cookies and
8 stuff to run on your computer, and it'll download some
9 weird-looking toolbar that all of a sudden you're trying to get
10 rid of and you can't. That is a malware. So it's --

11 Q And that's not necessarily a harmful virus, just
12 annoying --

13 A No, it is not. It's just very annoying and very hard
14 to get rid of.

15 Q Did you extract a report of all these scans?

16 A I did.

17 MS. KING: If I may approach Madam Clerk?

18 THE COURT: (No audible response.)

19 BY MS. KING:

20 Q I'm showing you what's been marked as State's Exhibit
21 26. Do you recognize that?

22 A I do.

23 Q And what is it?

24 A It's the report from the malware and from the
25 Windows, and screenshots from the Microsoft Security

1 Essentials.

2 Q Okay. Is that a fair and accurate representation of
3 the reports that you generated regarding those three devices?

4 A Yes.

5 MS. KING: State moves into exhibits No. 26.

6 MS. CHOI: No objection.

7 THE COURT: State's 26 is admitted.

8 (The documents marked for
9 identification as State's
10 Exhibit No. 26 were received
11 in evidence.)

12 MS. KING: If I could, if I could publish to the
13 jury?

14 THE COURT: (No audible response.)

15 BY MS. KING:

16 Q Beginning first with PC1 -- if you want to, you can
17 hold on to it.

18 A Okay.

19 Q And it's also on the projector, Mr. Gibson. As to
20 PC1, what were you able to locate?

21 A I'm sorry. Say, repeat the --

22 Q What were you able to locate as to PC1?

23 A There were no threats detected with the Windows
24 Security Essentials; however, with the Malwarebytes it came up
25 with a PUP, I think it was a PUP core.

1 Q And what is PUP?

2 A It's just a, it's an adware. It's what I just
3 described, the adware that gets downloaded where they keep
4 causing the pop-ups and stuff, and they can be adware. You
5 click on something and all these ads keep popping up, and
6 you're constantly getting mad and trying to get rid of it.

7 Q For the PC2, the work laptop, what, what did you
8 conclude from your analysis there?

9 A There were no threats detected with the Windows
10 Security Essentials, but once again, Malwarebytes discovered a
11 PUP on that as well.

12 Q And as to PC3, the Acer, where the child pornography
13 was found, what did you find there?

14 A There were no threats on either, with Malware or with
15 the Microsoft Windows Security Essentials.

16 MS. KING: No further questions. No further
17 questions.

18 THE COURT: Cross.

19 MS. CHOI: Yes.

20 CROSS-EXAMINATION

21 BY MS. CHOI:

22 Q So, Mr. Gibson, with regard to all of the images that
23 the jury got to see in detail, do they all come from the Acer
24 with the exception of the last batch, where it had the men in
25 the photographs? It all came from the Acer laptop?

1 A Correct, and the ones with the men were also on the
2 Acer.

3 Q Also on the Acer? Were they --

4 A Yes.

5 Q -- on the Dell at all?

6 A Yes, they were also on the Dell.

7 Q Okay. So two different --

8 A Same folder, F --

9 Q In the same -- okay.

10 A Right, same folder --

11 Q Okay.

12 A -- except one had more pictures than the other,
13 but --

14 Q But the same pictures?

15 A -- when I cross-referenced it over, they were the
16 identical. I did a hash match, and also the file structure
17 matched.

18 Q Okay. With regard to the, the, the thumb cache --

19 A Yes.

20 Q -- the little tiny images --

21 A Yes, thumbnails.

22 Q -- that are left as, I believe you explained it as a
23 shortcut --

24 A No. Link files are a shortcut.

25 Q Link -- okay. And the thumb cache --

1 A Link files.

2 Q -- is kind of like a little tiny mini-image?

3 A It's an image for helping you sort and finding
4 things.

5 Q Okay. So you're saying that the thumb cache image is
6 being created under the person using the computer, the Acer
7 laptop, correct?

8 A Yes.

9 Q Okay. And do you know anything about computer
10 hacking or cybersecurity through a router, any kind of
11 information with regard to having access to a laptop through a
12 hack?

13 A That's huge. That's --

14 Q It is.

15 A There's a lot of steps there. Are you asking me is
16 it possible?

17 Q No. I'm asking you if you have knowledge in that
18 field.

19 A No. I am not an intrusion --

20 Q Okay.

21 A -- I am not an intrusion person.

22 Q Got you. Okay. So, so my understanding is that you
23 seek and extract information and then analyze what that all may
24 mean?

25 A Correct.

1 Q And then you look for patterns in which, from that
2 pattern of activity, you can then decide where this person is
3 at versus where this person may end up. Is --

4 A Well --

5 Q -- that what you testified to?

6 A Yes, because, as we're going through it -- you have
7 to understand is that when I'm looking at these devices, I see
8 their whole lives pretty much, because I'm looking at hundreds
9 of thousands of images; in some instances, millions of images.
10 So I see a lot, a lot of pornography, both -- well, I can't say
11 good and bad, but I mean, like, nonlegal and legal.

12 So when I say the mindset of it is that not everyone
13 starts out, just in my opinion -- this, once again, this is my
14 opinion -- automatically going, I like children, I see it going
15 down a path, down a road where you see the erotica, then all of
16 a sudden you see other things, and then you start seeing the
17 nefarious. So when we start seeing the child erotica, it's a
18 high probability I'm going to eventually get to the child
19 pornography --

20 Q Okay.

21 A -- and in some instances, there's a high percentage
22 to where they go on to hands-on offense.

23 Q Okay. And so that hasn't happened here, correct,
24 that you know of?

25 A Pray to God, not.

1 Q Okay. Good. With regard to the iPad, you testified
2 that you knew that it was Mr. Mallik's iPad. Is that what your
3 testimony was?

4 A Well, it was with those evidence items that came to
5 me. So I'm --

6 Q You assumed that it was Mr. Mallik's iPad?

7 A Correct, because I could not confirm, but if I'm not
8 mistaken, the login screen, when you go to do it, has, I
9 believe, Abe Arjun Mallik on the login screen.

10 Q I don't know because -- all I know is that we have a
11 defunct iPad that is in a plastic bag and the last witness
12 can't remember if he plugged it in or not.

13 A Oh, I definitely plugged it in.

14 Q Okay. You plugged it in?

15 A I plugged it in, absolutely.

16 Q Do you know if Detective Snyder plugged it in to see
17 if it worked, because he doesn't remember?

18 A I do not know.

19 Q Okay.

20 A I would not assume that he would have, because
21 typically --

22 Q That would be unusual, correct?

23 A No. Usually, once the warrant is conducted, all the
24 evidence goes into a bag; it goes into evidence storage --

25 Q Sure.

1 A -- until it comes to me. I sign for it. I inventory
2 it, sign for it, and then usually, from wherever at it came
3 from, nobody messes with it until it comes to me.

4 Q Right. So he should know for a fact if he actually
5 plugged --

6 MS. KING: Objection, Your Honor.

7 MS. CHOI: Oh, okay. Well --

8 MS. KING: You're, she's --

9 MS. CHOI: -- I could, I could withdraw that
10 question.

11 THE COURT: All right.

12 BY MS. CHOI:

13 Q So, to your knowledge, you're the only person who
14 tried to plug that iPad in --

15 A Yes.

16 Q -- to see if it was operable?

17 A Yes.

18 Q And was it operable?

19 A Yes.

20 Q Okay. And did you take a screenshot of this, I guess
21 what you just described, when you --

22 A No, I did not.

23 Q Okay. So you took a screenshot of every single thing
24 that you essentially testified to, but on that one iPad that is
25 password-protected -- and apparently, the FBI cannot get into

1 it --

2 A Correct.

3 Q -- you could not get into it --

4 A Correct, neither could Baltimore, our --

5 Q -- neither could Baltimore --

6 A Correct.

7 Q -- you didn't think to maybe screenshot the one
8 screen that had some content with regard to the ownership of
9 the iPad?

10 A No, I didn't.

11 Q You just assumed that it was Mr. Mallik's iPad?

12 A Because, yes, because typically, when we are at a
13 residence --

14 Q Yes.

15 A -- when we're interviewing people, the daughter, the
16 wife will say --

17 MS. CHOI: Objection, Your Honor. I don't --

18 MS. KING: She opened the door. He can explain why
19 he believes that --

20 MS. CHOI: Well --

21 THE COURT: Well, this isn't --

22 MS. KING: -- this is --

23 THE COURT: -- as I -- what he's saying is -- I'm
24 going to allow it unless --

25 THE WITNESS: Thank you, Your Honor.

1 THE COURT: -- I don't want you to tell me what
2 anybody told you in this specific case.

3 THE WITNESS: No. I'm being very generic, is that
4 typically --

5 THE COURT: Okay.

6 BY MS. CHOI:

7 Q Oh, okay. Okay. That's fine then. Go ahead.

8 A Typically, people, other people within the residence
9 will identify their devices and say, especially when they find
10 out why we are there, they will say that's not mine, that
11 belongs to this individual or that individual, and that's how
12 we normally do it. That's how I preview stuff and that's how I
13 clear stuff. So --

14 Q So in this particular case, the iPad doesn't have any
15 kind of a label on the outside that says physically or anything
16 that would identify in and of itself that it's Mr. Mallik's?

17 A No, until you plug it in and hit the on-screen
18 button; it asks for your password.

19 Q Okay. And that on-screen button, the screenshot of
20 it, you did not take?

21 A No.

22 Q Okay. How many screenshots, actually, did you take
23 of every single thing that you've just testified to --

24 A None.

25 Q -- do you know?

1 A None.

2 Q Eight what?

3 A Well, other than items I find within my forensic
4 stuff?

5 Q Right. Right. That's, I'm --

6 A Yeah, I took -- oh, I took all of those.

7 Q You took all of those. How many screenshots did you
8 take?

9 A I have no idea.

10 Q Fifty? A hundred?

11 A No, I wouldn't put it that high.

12 Q Okay. Now, with regard to the 60 or 70 cases --

13 A Uh-huh.

14 Q -- that you have been involved in --

15 A Yes.

16 Q -- you said that you have, I guess, provided forensic
17 analysis on about a hundred --

18 A Well, that's --

19 Q -- devices.

20 A -- that's actual devices.

21 Q Yes, right, devices, on the actual --

22 A Yes, if not more.

23 Q -- not 60, 70 cases. Now I'm talking about from
24 those 60, 70 cases --

25 A Okay.

1 Q -- did you deal or analyze about a hundred devices?

2 Is that --

3 A If not more, yeah --

4 Q If not more. Okay.

5 A -- probably more.

6 THE COURT: I thought the actual testimony was
7 hundreds.

8 THE WITNESS: Yes, absolutely.

9 MS. CHOI: It was hundreds? Okay. Hundreds. Okay.
10 Got it.

11 BY MS. CHOI:

12 Q And of the hundreds of the devices that you've
13 actually analyzed, how many have been locked out like this
14 iPad?

15 A Oh, probably quite a few, because based on the
16 operating system of it, the tablet, the encryption of it, in
17 some instances we just can't get in.

18 Q So you're telling me that this one particular iPad is
19 just password-protected and none of it -- none of the passwords
20 worked?

21 A Correct.

22 Q That's it? Did you try to go in a different way, a
23 back door way in, in any of --

24 A Oh, absolutely.

25 Q Okay. And nothing worked?

1 A No. Actually, you can hook it up to another Apple
2 device and -- but when you do that, it has to be synced to the
3 last computer it was actually synced with. You can't do it.
4 So my forensic machines aren't going to do it, even though I
5 have all Apples. It has to be synced back to the last computer
6 it was synced to, and looking at his devices, that he had had
7 other -- because I can also tell you which computers had
8 devices hooked up -- there was no iPad ever synced to his Acer,
9 his work computer, or his other, PC1.

10 Q Is that --

11 A There was a --

12 Q -- anywhere in the report --

13 A No.

14 Q -- that you tried that method and it did not work at
15 all?

16 A No, because --

17 Q Okay.

18 A -- if, if it had worked, that would have been awesome
19 and we would have probably done it. The FBI probably would
20 have did the same thing. We're not in the habit of --

21 Q But my question is this. My question is this: Is --
22 there's an iPad.

23 A Okay.

24 Q It's a device that --

25 A Yes.

1 Q -- was seized during a warrant. This is in your
2 field, where, apparently, defendants collect a lot of child
3 erotica, child pornography images. Out of all of the devices
4 and all of the electronic items, 27 to be exact, what's been
5 labeled as child pornography are three images on one laptop.
6 It didn't maybe make sense to you to put in the report that you
7 tried your best efforts to go the back way in to hook up that
8 iPad with some of the other computers, because you've had all
9 of the computers --

10 A Uh-huh.

11 Q -- every single device that Mr. Mallik owned and
12 you're claiming that Mr. Mallik owns the iPad --

13 MS. KING: Your Honor, is there a question?

14 BY MS. CHOI:

15 Q -- could have, it didn't -- you didn't think that
16 that was significant enough in this particular case, where
17 three images -- I'm not saying only three because I'm not
18 making light of that -- three images were found in all of these
19 other images that you're testifying to, hundreds, and you just
20 simply decided to leave that information out of your report,
21 your forensic report?

22 A Yes --

23 Q Okay.

24 A -- for the simple reason is that we're not in the
25 habit of annotating negative findings or, you know, if it's a

1 broken computer, why would I waste my time when I have six
2 other cases that I need to get on to? Why would I waste my
3 time annotating all the negative results? I look for those
4 items that have evidentiary value because I have --

5 Q Right. You're making your case for the State. I
6 understand that.

7 A So --

8 MS. KING: Objection, Your Honor. She's
9 mischaracterizing what the --

10 THE COURT: I'll, I'll ask that that be stricken from
11 the record.

12 MS. CHOI: That's fine, Your Honor. I'll withdraw
13 it.

14 BY MS. CHOI:

15 Q With regard to the BlackBerry, you were not able to
16 access that --

17 A Correct.

18 Q -- telephone, correct?

19 A Yes.

20 Q And because it was password-protected, it was owned
21 by the FDA?

22 A Right, and they have other security protocols in
23 place. To even get to it, you have to coordinate with them,
24 they have to set up, they have to create stuff, and it just
25 never worked out because of their security protocols and the

1 forensic tools that I use, Cellebrite Mobile Forensics, it
2 doesn't work on all devices.

3 Q So do you actually reach out to them and say, look, I
4 have this FDA-owned BlackBerry --

5 A Yes.

6 Q -- and we would like to have access to find out the
7 contents of it? Did you do that in this particular case since
8 you had the device, it was in your inventory log?

9 A Yes.

10 Q You did?

11 A But my, my forensic software would not work on it.

12 Q Oh, I see. So you were able to try to extract
13 information, but it just would not work?

14 A Correct.

15 Q And was there a way, from FDA, to help and assist you
16 with that?

17 MS. KING: Objection. That calls for speculation.

18 THE COURT: Overruled.

19 THE WITNESS: Okay. The -- yes, I did --

20 BY MS. CHOI:

21 Q Yes.

22 A -- and talking with their guys, they gave me the
23 password. I had to download software. Once I got through
24 that, I then tried to image the phone with the Cellebrite
25 forensic program, and between that, it would not match up. It

1 wouldn't work. It wouldn't give me the image.

2 Q Okay. So they had access to -- they, meaning, for
3 the record, the FDA --

4 A Okay.

5 Q -- so Mr. Mallik's employer --

6 A Okay.

7 Q -- had access to that phone, which was locked up like
8 Fort Knox, is basically what you're saying, so that your --

9 MS. KING: Your Honor, she's mischaracterizing. He
10 said --

11 BY MS. CHOI:

12 Q -- program can't --

13 MS. KING: -- he was able, she was -- he was able to
14 access it. He just wasn't able to create a forensic copy, is
15 what he stated.

16 THE WITNESS: Yeah. They --

17 BY MS. CHOI:

18 Q Okay.

19 A -- basically, they gave me the password through a
20 computer, because I was e-mailing back and forth, and I ask
21 them, how do you do this, and they said, well, you're going to
22 have to go through, download this password, then it will take
23 you to this server --

24 Q Okay. Got it.

25 A -- and then you go through this, and --

1 Q So --

2 A -- and trying to do it while live acquisition with
3 my machine, it just wouldn't connect, because I, I believe the
4 speed at the county is slow and therefore it kept disconnecting
5 and timing out and --

6 Q All right. So my question is, if you could not get
7 the software, I guess, to run in this BlackBerry that you
8 actually got into, did you think to maybe look manually to see
9 if you had any images?

10 A Oh, no, because it's password -- you have to have
11 their security stuff to even get into the phone.

12 Q I thought that they were cooperating with the
13 password security information. I thought you were talking to
14 their guy and they helped you.

15 A But that doesn't, their security guy -- because it's
16 his password still, so I would still need his stuff. When I
17 run the forensic image machine, sometimes it will get me past
18 passwords; a lot of times it will not. So --

19 Q All right. Yes.

20 A -- in this particular case, it has to link to the,
21 like, the BlackBerry server and then try to get it downloaded,
22 and for whatever reason it just would not stay connected and
23 give me the image.

24 Q Okay. So is it possible for you to find out, just
25 based on the fact that you got into this BlackBerry, whether or

1 not it was reset and whether or not the phone was pretty much
2 rebooted, cleaned out? Were you able to --

3 A No, I wasn't able to --

4 Q -- find any --

5 A -- really get anything, no.

6 Q Oh. Well, is there a way of actually resetting the
7 password once you got into the phone so that you can get into
8 the contents?

9 A If you start resetting -- and I can't speak for the
10 FDA and their procedures --

11 Q Sure, sure, sure.

12 A -- and their protocols of how their phones actually
13 work -- but once you get into that, there is a chance, just
14 like with the Apple iPad, it may wipe it, because you only get
15 so much time and, to reset it, it may re-wipe it and set it
16 back to its factory default settings.

17 Q Okay. So, just so that I understand about Apple, is
18 that once you have a password like this and you just can't --

19 A Are we talking the Apple or the BlackBerry?

20 Q Yes, the Apple --

21 A Okay.

22 Q -- the iPad --

23 A Okay.

24 Q -- actually the iPad, specifically the iPad. With
25 regard to the iPad, if you don't have a password and it's

1 password-protected, then essentially you're telling us, your
2 testimony, that you, the expert witness that does this for a
3 living, Homeland Security, FBI, and the Baltimore office will
4 just never be able to get into that Apple iPad. Is that what
5 you're saying?

6 A No.

7 Q Okay.

8 A The reason why I say --

9 Q So there's a way to get in?

10 A There is a way, because Cellebrite is one of the
11 tools that we use. It's for mobile forensics. I use it on
12 pads, tablets, and this other stuff. This month, which they
13 don't have yet, because I consulted with the Cyber Crimes
14 Center, they said with the next rollout, they would be able to
15 do this and crack that on this iPad, but here we are today.

16 So right now the answer is no because the
17 government -- it's very expensive. As you know, in the one
18 news for the terrorist, Apple did not even want to open that
19 and there was -- they finally got into it, but that was
20 thousands upon thousands of dollars, taxpayer dollars.
21 Obviously, they were -- if we had more time, we would have
22 gotten into Mr. Mallik's iPad.

23 Q Okay. Okay. And you testified that was unusual for
24 somebody that is a defendant of knowingly possessing child
25 pornography, that they would use a VPN, a virtual private

1 network --

2 A Yeah. Actually, this is my first case.

3 Q -- you testified that it's unusual.

4 A Yeah. This is my first case.

5 Q This is your very first case?

6 A Yes, with him using a VPN.

7 Q Usually -- so out of the 60 to 70 cases that you have
8 analyzed hundreds of devices --

9 A Yes.

10 Q -- and provided forensic analysis, this is your very
11 first case --

12 A Of VPN.

13 Q -- of VPN?

14 A I've had, I've had devices that are encrypted --

15 Q Yes.

16 A -- which I'm not getting into. I mean --

17 Q That's fine. You could get into it.

18 A -- it's just, just the way it is, but --

19 Q Yes.

20 A -- typically, as I said, I've --

21 Q Typically, they store in encrypted devices, correct?

22 A Well, no. Most of the time they store it openly

23 or --

24 Q Oh, okay.

25 A -- they, they look at it and then delete it. There's

1 a term for that, which I don't wish to state here, for those
2 individuals. So we find a lot of it in the unallocated space
3 of their devices --

4 Q Yes.

5 A -- you find it everywhere. Sometimes you find it on
6 multiple devices. Sometimes you only find it on one device --

7 Q Yes.

8 A -- it's just the way it is, you know. The guys that
9 have the families, they don't want them knowing; they have
10 their one thing where they keep it and store it, because
11 anything else, the family could find it and --

12 Q Or it could be a woman, not just --

13 A Yes.

14 Q -- the one guy?

15 A That is correct. I have had --

16 Q Okay.

17 A -- a couple of women cases --

18 Q Yes.

19 A -- but the majority of them are men.

20 Q Well, I mean, I guess some of the images I think I
21 saw and also the description, it did include some adult women.

22 A Yes.

23 Q Okay.

24 A Yes, and I see those images --

25 Q Just so that we're clear, it's not just men?

1 A Right. I see those images in a lot of my cases.

2 Q Of women?

3 A Those particular images? No. I --

4 Q Yes.

5 A -- see those particular images in a lot of cases.

6 Q Those specific images?

7 A Those exact specific images.

8 Q Those, those exact images?

9 A Yes. Oh, absolutely.

10 Q Okay. I'm not following. So they're just out there
11 somewhere? Where did they come from?

12 A The Internet.

13 Q Okay. So how are they acquired?

14 A A person can go to them. They can download them.
15 They can share them through chats. They can -- any numerous
16 ways that you can talk with someone, you can, you can download
17 images.

18 Q So those specific images are not new to you; you've
19 seen them around many times?

20 A Correct.

21 Q Okay. So it can be found -- it's just found on the
22 Internet; so anybody can have access to it?

23 A No. No. You have to go to specific types of sites
24 to get those.

25 Q Okay.

1 A I mean, you're not just going to click in Google
2 Chrome and --

3 Q Right. Right.

4 A -- find them, I mean, no.

5 Q Okay. Clearly, you're not going to --

6 A No. They're --

7 Q -- otherwise, you're flagged.

8 A -- you have to go to specific websites or to specific
9 chat rooms --

10 Q Okay.

11 A -- and talk with people who trade and do other stuff.

12 Q So do they sell this stuff?

13 A Depends on the level of membership you want to buy.

14 Q What do you mean by that?

15 A Well, okay. Many of you over there, you might have a
16 LinkedIn account. You can either get the free LinkedIn or you
17 can pay for various levels of membership all the way up to,
18 like, premium or gold or whatever. There is free child
19 pornography out there, which people get, trade, and it's
20 free -- the Little Angel series, as I talked to you. Some of
21 these series are free because these children have been
22 exploited for so many years now, it's free because the guys who
23 actually produce child pornography are like, this has no
24 bearing on me anymore, it's not worth anything, everybody has
25 seen it. So you then buy a level membership where these guys

1 will then say, okay, to come in, you must do x, y, and z and
2 you have to produce, produce one video or you have to give us
3 new stuff every month, otherwise we're going to yank your, your
4 subscription per se.

5 So as you start seeing them go down this dark path,
6 then sometimes they will go for a next level of membership,
7 which says, okay, now you have to do this. Well, they know law
8 enforcement is out there, scanning the e-waves, trying to find
9 these guys. So they also know law enforcement can't upload
10 their own stuff. So they will say, okay, you have to produce
11 new stuff and you're going to write this message, this date on
12 the child's body. So -- and you're going to film it and you're
13 going to send it to me. So that's what they do.

14 Well, grabbing children on the playground is not, is
15 not very common. I mean, it's, it's virtually unheard of.
16 Most of the molestation happens within the child's family. So
17 they can't go out and just grab a kid, so they start looking at
18 their own children, stepchildren, girlfriend's, daughters, this
19 kind of stuff, and you see them going down this path. So
20 that's when the hands-on offending begins, and you start seeing
21 it because early you see the erotica, then you see the child
22 exploitation, then you start seeing the documents like how to
23 brainwash children -- and not that I saw this on his computer;
24 you asked for a general, so I'm giving how you kind of start
25 seeing things going -- then you start seeing other things, like

1 how to -- you know, they realize law enforcement is out there,
2 so they start looking at how to hide themselves.

3 We very seldom catch the smart ones. I'm going to
4 tell you that right now. We very seldom do. For the really
5 technical, savvy, a lot of times we don't catch those.
6 Mistakes are made. That's how we get them, but -- so you see
7 different levels of membership and that's how children begin to
8 get exploited. There's other things we can get into,
9 sextortion, and all kinds of other stuff through Facebook
10 stuff.

11 Q That's all right. Thank you.

12 A Okay.

13 Q No, yes, no, you're -- no, that's good. So -- okay.
14 So the, the VPN is actually your very first case --

15 A Yes.

16 Q -- that involves --

17 A It's designed --

18 Q -- knowingly possessing child pornography?

19 A Right. It's designed for hiding and for not letting
20 people know what you're doing.

21 Q Okay. So do you have a lot of experience with regard
22 to working with VPNs that you know the ins and outs --

23 A I have somewhat --

24 Q -- because you are an expert witness in seeking and
25 extracting data with regard to this?

1 A Correct. I have a limited knowledge of --

2 Q Okay.

3 A -- VPNs and stuff.

4 Q Okay. Limited knowledge?

5 A Yes.

6 Q All right. And with regard to all of the items
7 seized, the 27 devices and the electronically related items,
8 like CDs, DVDs, storage drives --

9 A Right.

10 Q -- and such, it is your testimony that other than
11 what you testified on the Acer, that none of the other images
12 had child pornography?

13 A Everything was clean.

14 Q Everything else was clean. The camcorders, the
15 cameras --

16 A Well --

17 Q -- none of that stuff, that first-stage thing --

18 A Yeah. We would hope --

19 Q -- where he is self-producing --

20 A We never want to -- we never want to find anything on
21 cameras and SD cards --

22 Q So you found nothing at all?

23 A -- because, typically, that goes into production.

24 Q All right. So you found nothing at all --

25 A Correct.

1 Q -- concerning Mr. Abe Mallik?

2 A Except on the Acer.

3 Q On the Acer? Okay.

4 A Yes.

5 MS. CHOI: Okay. That's all I have, Your Honor.

6 MS. KING: Just very brief.

7 REDIRECT EXAMINATION

8 BY MS. KING:

9 Q Is there -- reviewing the folder structure, the
10 nature of the images that you found, is there anything
11 unusual -- is that consistent with your investigation of child
12 pornography?

13 A Yeah. The folder structure? Yes. We typically see
14 a lot of times where they name folders.

15 Q And is it, and you stated -- is it uncommon for child
16 pornography just to be found on one of a defendant's device?

17 A No, it's not uncommon.

18 MS. KING: No further questions.

19 THE COURT: I have a question.

20 THE WITNESS: Sure.

21 THE COURT: It's my understanding that, for instance,
22 the iPad, that with a court order, you can send that iPad to
23 Apple and they would be able to access the information.

24 THE WITNESS: That would take months and months, Your
25 Honor.

1 THE COURT: I'm aware of that.

2 THE WITNESS: But there is -- and then also the cost
3 incurred on the taxpayers. So that was why, if we could wait
4 until next month -- Homeland Security has a contract with
5 Cellebrite for advanced techniques and stuff, but that was not
6 coming out until past this court date. So we were kind of
7 stuck. I tried everything. I was provided with a sheet of
8 passwords, very meticulous, and when the passwords did not
9 work, I tried other passwords that were very similar to the
10 ones between his user accounts, didn't get it. I was hoping I
11 would get lucky but didn't happen.

12 THE COURT: Any questions in light of the Court's
13 question?

14 MS. KING: No, Your Honor.

15 MS. CHOI: I do have one follow-up.

16 RECROSS EXAMINATION

17 BY MS. CHOI:

18 Q With regard to the password, that extensive list, was
19 that unusual in this particular situation?

20 A I found it unusual that he had such a -- because I
21 typically don't see meticulously kept lists --

22 Q Yes.

23 A -- that --

24 Q So out of the --

25 A -- he couldn't, that he couldn't remember his

1 password. I, I just don't find that -- I find that hard to
2 believe.

3 Q Okay. So he's got numerous passwords, and he wrote
4 them down, obviously?

5 A But they were all very similar. They all focused
6 around 1992, as -- if you remember the password on his two
7 laptops was June#1992. The other ones were, most of them were
8 in various degrees of 61992 or -- all of them kind of focused,
9 for the majority, I would say more than 80 percent of them.

10 Q So does that make sense? If these passwords are so
11 very close in character to what it seems like, I guess there
12 was no need to meticulously write down all the passwords. If
13 you're saying that because they had one little letter, one
14 little number off, it doesn't seem logical or actually
15 necessary to create this password Excel spreadsheet, right?
16 You don't usually have that kind of, I guess, detailed listing
17 of passwords in your 60 to 70 cases that you've had to
18 investigate, correct?

19 A I'm sorry. Repeat the question.

20 Q So in your 60 to 70 cases --

21 A Correct.

22 Q -- is this case unusual because there has been a
23 meticulous listing of all of the passwords?

24 A Well, we'll typically find two or three passwords --

25 Q Yes.

1 A -- maybe under a device, but for my forensic
2 software, a lot of times it doesn't matter; it blows right past
3 that password --

4 Q Okay. So for this particular case --

5 A -- it's when it's encrypted that, and a lot of -- I'm
6 sorry?

7 Q So for this particular case, compared to the others,
8 the 60 to 70 that you've had, was it unusual to compare that he
9 had an extensive list of passwords versus your other 60 to 70?

10 A No, I wouldn't say it was unusual. It was just --

11 Q Okay.

12 A -- neat, organized. It kind of, it, it reminded me
13 of a professional, a professional individual who's maybe -- I
14 don't know. It was almost bordering OCD, if not, obsessive
15 compulsive, because, boom --

16 Q Guilty of that, yes.

17 A -- they're all there, the, the, the name, the
18 account, and everything else.

19 Q So did those passwords actually work?

20 A Oh, no, and you only get, and you only get --

21 Q No, no, no, not to the iPad, not to the iPad, but to
22 the devices or whatever accounts there were.

23 A Oh. No, it didn't matter. My software blows past
24 it --

25 Q Oh, okay. So you didn't even need --

1 A -- it doesn't even ask for them.

2 Q -- to test any of the --

3 A Correct --

4 Q Okay.

5 A -- I didn't need to test any of them. It's when it's
6 encrypted with, like, BitLocker or something like that, that as
7 soon as I plug it in --

8 Q But --

9 A -- it flashes up this sign that says --

10 Q -- none of --

11 A -- please do your encryption key now or whatever.

12 Q So none of these devices had, the 27 that was
13 electronic device or electronically related, none of them had
14 these encryptions?

15 A No, just the, the Acer laptop -- and I'd have to
16 check my report -- had the same password, June#1992, for the
17 login.

18 Q And that worked?

19 A No, I didn't need it. I --

20 Q Oh, right.

21 A -- extracted that through the registry files.

22 Q My apologies. Okay. Okay.

23 A Yeah, I extracted that through the registry files to
24 find that the password was that for both of those, but no --

25 Q Okay.

1 A -- my software just blew past that.

2 Q Okay. All right.

3 MS. CHOI: Nothing further.

4 MS. KING: Nothing further.

5 THE COURT: Thank you, sir. Can we excuse the
6 witness?

7 MS. CHOI: Yes, Your Honor.

8 THE COURT: Thank you, sir. All right. Ladies and
9 gentlemen, we're going to adjourn for the day. We'll start at
10 9:30 tomorrow, and my understanding is -- let me ask a
11 question. Ms. King --

12 MS. KING: Yes, Your Honor.

13 THE COURT: -- is this your last witness?

14 (Witness excused.)

15 MS. KING: Yes, Your Honor. State rests.

16 THE COURT: Anything else you plan on introducing?

17 MS. KING: Not in the case-in-chief.

18 THE COURT: All of the exhibits of the State are
19 currently in evidence, Madam Clerk?

20 THE CLERK: Yes.

21 THE COURT: All right. So the State is, is at a
22 point where it rests, and then we will start up tomorrow with
23 the Defense case. My understanding is there are -- is it two
24 witnesses?

25 MS. CHOI: Two witnesses, Your Honor.

1 THE COURT: All right. And I'm hoping to get this
2 case to you in good time so that hopefully, once you get it,
3 you'll be able to reach a verdict tomorrow. Ladies and
4 gentlemen, thank you for your service. Have a good evening.

5 THE JURY: Thank you.

6 THE COURT: Counsel, would you approach?

7 (Bench conference follows:)

8 THE COURT: You've got, or both sides submitted
9 proposed instructions. You --

10 MS. CHOI: Right.

11 THE COURT: -- just put the --

12 JUROR: Thank you, Judge.

13 (The jury left the courtroom.)

14 THE COURT: -- pattern number as opposed to the
15 actual instruction.

16 MS. CHOI: Correct.

17 THE COURT: I'd like you to sit down with Heath now
18 and let him know what instructions you actually are going to be
19 requesting. Now, I realize that could change based on evidence
20 that we have not -- but I want him to be able to start working
21 on instructions. I don't want to start from scratch.

22 MS. KING: No. I think the list that we submitted --

23 MS. CHOI: Yes, it's fine.

24 MS. KING: -- includes everything that we --

25 MS. CHOI: Yes.

1 MS. KING: -- we would want.
2 THE COURT: But --
3 THE CLERK: Are there differences?
4 THE COURT: -- some of it may not --
5 MS. KING: No.
6 THE COURT: -- some of it --
7 MS. KING: They're, they're pattern jury.
8 MS. CHOI: They're pattern juries.
9 THE COURT: Some of it may not be applicable. You
10 may decide --
11 MS. KING: Oh, I see what you're saying.
12 THE COURT: Do you see what I'm --
13 MS. KING: Yes.
14 MS. CHOI: Yes.
15 THE COURT: Because, typically, what, what we do is
16 we sit down --
17 MS. CHOI: Yes.
18 MS. KING: Yes.
19 THE COURT: -- we strike out --
20 MS. CHOI: Yes.
21 THE COURT: -- we, you know --
22 MS. CHOI: Like Impeachment by Prior, or something
23 like that.
24 THE COURT: Right. Right. Right. Right.
25 MS. CHOI: Yes. I've got one of those --

1 MS. KING: Sure.

2 MS. CHOI: -- I have to strike out.

3 THE COURT: And there may be some, you know --

4 MS. KING: Okay.

5 THE COURT: -- something that's in brackets in a
6 particular instruction that --

7 MS. CHOI: Unless one of your witnesses has a prior
8 conviction.

9 MS. KING: No.

10 MS. CHOI: No? Okay.

11 MS. KING: And then, Heath, I'll e-mail you a verdict
12 sheet.

13 THE CLERK: Oh, perfect. Thank you.

14 MS. CHOI: Okay.

15 THE COURT: All right. Verdict sheet and
16 instructions, that should --

17 THE CLERK: And I can get those done first thing in
18 the morning.

19 THE COURT: What?

20 THE CLERK: I can get those done in the morning
21 before we even start.

22 THE COURT: Okay. All right. So he has everything
23 he needs from both sides.

24 THE CLERK: The, I think the proposed jury
25 instructions are -- they're in the file right now?

1 THE COURT: Yes, they are.

2 THE CLERK: Let's just make sure there are no
3 differences between the two.

4 MS. CHOI: Yes. There's like two, two more pattern
5 juries coming.

6 (Bench conference concluded.)

7 THE CLERK: All rise.

8 (The proceedings were concluded.)
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✓ Digitally signed by Wendy Campos

DIGITALLY SIGNED CERTIFICATE

DEPOSITION SERVICES, INC. hereby certifies that the attached pages represent an accurate transcript of the electronic sound recording of the proceedings in the Circuit Court for Frederick County in the matter of:

Criminal No. 10-K-16-059271

STATE OF MARYLAND

v.

ABE ARJUN MALLIK

By:

Wendy Campos

Wendy Campos
Transcriber